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The Impact Of Expert Testimony Pertaining To The "battered Woman Syndrome" On Jurors' Information Processing And Decisions

Regina A. Schuller

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THE IMPACT OF EXPERT TESTIMONY PERTAINING TO THE "BATTERED WOMAN SYNDROME" ON JURORS' INFORMATION PROCESSING AND DECISIONS

by

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ABSTRACT

It is contended that the lay public, from which jurors are chosen, holds a host of erroneous beliefs and misconceptions about the causes and effects of violence against women in intimate relationships. These myths, it has been argued, present major obstacles to the successful defense of battered women who have killed their spouse. In an effort to educate jurors about the inaccuracy of these myths, the defense has sought to introduce expert testimony about the social and psychological effects of extended periods of abuse on a woman's beliefs and behaviors. The goal of this testimony is to provide jurors with an alternative perspective from which to interpret the trial information about the defendant's mental state and perceptions at the time of the killing. To assess the impact of this testimony, the present research investigated the effects of two different presentational forms of "battered woman syndrome" testimony on juror/jury decision processes. In two simulation experiments the impact of the testimony on jurors' verdicts and interpretations of the trial information was examined. It was hypothesized that the presence of battered woman syndrome testimony would influence final verdicts via its mediating effect on jurors' interpretations of the trial information relating to the defendant's beliefs and actions. Moreover, on the basis of prior studies that have examined the impact of court experts on the juror decision process, it was expected that the effects of the testimony would vary as a function of the degree to which it was explicitly connected or linked to the defendant on trial. In the first experiment, individual jurors (N=108) read a version of a homicide trial involving a battered woman who had killed her husband and was claiming self-defense. A third of the jurors read only this basic trial testimony, while the remaining two-thirds heard additional testimony by an expert on battered woman syndrome. For half of the subjects exposed to expert testimony, the expert presented only the general research findings on battered women ("general expert condition"), while in the other half the expert supplemented this

general information with an opinion that the woman fit the battered woman syndrome ("specific expert condition"). Jurors were required to render a verdict from among three verdict alternatives (second degree murder, manslaughter, or not guilty on the grounds of self-defense) and to evaluate various aspects of the trial testimony. Results indicated that the presence of the specific expert testimony, as compared to the no expert condition, led to interpretations of the trial testimony that were more consistent with the defendant's claim of self-defense. These interpretations, in turn, were related to the verdicts rendered, with a greater proportion of not guilty verdicts occurring for jurors in the specific expert testimony condition as compared to the no expert condition. This effect was not evidenced for the general expert condition. Gender differences were also detected, with females being more favorable towards the defendant's claim of self-defense than males. In a second experiment, small groups of jurors (4-5 members) listened to an audio-taped version of one of the three conditions employed in Experiment I (10 juries per condition). Jury members deliberated on the case until a unanimous verdict was reached. Post-deliberation judgments were also collected on a range of measures. A moderate shift in jury verdicts from second degree to manslaughter was found for the expert testimony conditions (both general and specific) in comparison to the no expert condition. Moreover, content analyses conducted on the deliberations, as well as jurors' post-deliberation judgments, indicated that the testimony (both general and specific) led to more favorable interpretations of some aspects of the defendant's claim of self-defense. General perceptions of the defendant were also altered. Theoretical and practical implications of the findings, as well as possible reasons for the differential utilization of the general expert testimony across the two experiments, are discussed.

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CHAPTER I

INTRODUCTION

Overview

In both civil and criminal trials, social scientists are now commonly asked to testify in court about a broad range of issues. In addition to the traditional use of expert psychological testimony (e.g., assessments of insanity or mental illness), experts are now being called to testify about such diverse topics as the accuracy of eyewitness identification, cross-cultural differences in behavior, and psychological syndromes or profiles (see generally, Monahan & Walker, 1985). This emerging use of social science in the courtroom, labelled "social framework" testimony by Monahan and Walker (1986; Walker & Monahan 1987), has been met with mixed reactions, and difficult decisions concerning when and how such testimony should be presented are currently being faced by many trial and appellate courts.

One particular type of social framework testimony that has engendered considerable debate is the "battered woman syndrome". Attempts to introduce this type of testimony have occurred in criminal trials of battered women who have killed their abusive mates. In such cases, the woman presents a claim of self-defense by stating that she used physical violence, which ended in her spouse's death, in an attempt to prevent him from killing her. To help support this claim, the defense has sought to introduce expert testimony regarding the social and psychological consequences of repeated physical violence on a woman's beliefs and behaviors. Although attempts to introduce this testimony at trial are just beginning to occur in Canada, many battles regarding its admission have already taken place in the United States.

Much of the controversy surrounding the introduction of battered woman syndrome testimony focuses specifically on how the jury is likely to use, or perhaps misuse, it. Yet, little is known about how jurors respond to information about the battered woman syndrome. Thus, the purpose of the present research was to examine empirically the effects of the

testimony on jury decision making processes. Its impact was explored within a social-psychological conceptualization that emphasized the role of interpretation and representation of evidence, an approach, it will be argued, that is particularly well suited for evaluating the impact of expert testimony. Two experimental studies were conducted. The results of the studies not only provide information on a timely and important issue of legal relevance, but also build and elaborate on our current understanding of juror and jury decision making. Moreover, the findings, although derived in a legally relevant setting, also provide some valuable insights into the more general psychological processes involved in complex decision making behavior.

The thesis is organized around four chapters. This introductory chapter first provides the reader with a general discussion of expert testimony pertaining to the battered woman syndrome and the legal and psychological assumptions underlying its use. Next, attention is given to a representational model of juror decision making, which provided the conceptual framework for the research. Empirical studies bearing on other types of expert social science testimony, particularly that pertaining to eyewitness unreliability, are then reviewed. The second chapter reports a simulation study that examined the way in which expert testimony about the battered woman syndrome alters the decision processes of mock jurors. The third chapter presents a second simulation study that further extended the research by examining the influence of the testimony on deliberating groups of jurors. The results of these studies and their implications are then discussed in the final chapter of the thesis.

Jury Decision Making and Expert Testimony Regarding Battered Women

The trial setting provides a forum for presenting contested versions of a set of events to "triers of fact" (the jurors)[1] in order that they might determine, as accurately as possible,

1. It is acknowledged that many of the issues raised in the thesis would be applicable to judges as well as jurors. The focus of the thesis, however, is specific to jury decision making and the judge as a trier of fact will not be discussed.

what exactly happened and why (see generally, Hastie, Penrod, & Pennington, 1983; Hans & Vidmar, 1986). As such, the jurors' task involves a range of complex decisions. It may concern judgments that are objective in nature such as issues about identity (e.g., who did it?), or it may involve judgments that are more subjective in nature such as the mental state of the individual involved (e.g., did the actor intend to do it?) or the justifiability of the actions that were taken (e.g., was the actor provoked such that she had no alternative?). These judgments are certainly not straightforward, otherwise the trial itself would be unnecessary. Rather, through the testimony of various witnesses potential pieces of the puzzle of "what happened" (pieces that are by no means complete or accurate) are presented. It is the function of the jury to listen to this evidence and to determine the "facts" of the case so that the applicable laws and verdict can be applied to them.

Although the jury's determinations are to be based solely on the testimony, jurors must draw on their own knowledge and common understanding about the world to determine the veracity, meaning, and weight that should be assigned to the different pieces of evidence. In some cases, however, the jury's ability to perform this function has been challenged on the grounds that the members lack the requisite knowledge or understanding to adequately evaluate the importance and implications of some types of testimony. One approach that has been suggested for dealing with this problem has been to allow social scientists to testify about the information that the jurors are allegedly lacking. Monahan and Walker (1986, 1988; Walker & Monahan, 1987) have coined the term "social frameworks" to refer to this relatively new use of social science in the courtroom. Specifically, it involves the introduction of general research results to construct a frame of reference to assist jurors in their evaluation and interpretation of specific trial facts.[2]

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2. This novel use of testimony, although different, incorporates aspects of traditional uses of social science in the courtroom, which have been limited to "legislative fact" (e.g., general research findings used to aid in the determination of questions pertaining to general law and policy) or "adjudicative fact" (e.g., findings derived from parties specific to the case to aid in the determination of specific facts in dispute) (Monahan & Walker, 1986, 1987).

One specific area in which the use of this type of expert testimony has been advocated involves homicide trials of battered women who have killed their alleged abusers. In these cases, the woman freely admits to the killing, but claims that the act was committed in self-defense, thus rendering it a justifiable homicide. This claim, however, has been particularly problematic for the defence to put forth convincingly in these trials. It is contended by numerous legal commentators and researchers that major barriers to the defendant's claim of self-defense stem from the jurors' general beliefs about battered women and the nature of their violent relationship (Blackman, 1986; Blackman & Brickman, 1984; Crocker, 1985; Ewing, 1987; Gillespie, 1989; Schneider, 1980, 1986; Schneider, Jordon, & Arguedas, 1981; Thar, 1982; Thyfault, 1984; Thyfault, Browne, & Walker, 1987; Walker, 1979, 1984; Walker, Thyfault, & Browne, 1982; Walter, 1982; Waltrip, 1986). Specifically, it is alleged that the lay public, from which jurors are chosen, holds a host of misconceptions and stereotypes about the causes and effects of violence in intimate relationships.[3] For instance, such myths include the following beliefs:

> ...that battered women are masochistic, that they stay with their mates because they like beatings...that they are free to leave such relationships if that is what they want (Walker et al., 1982, p. 1).
>
> ... that abuse is a random act of a mentally disturbed person. Another common misperception is that abusive men are always mean and violent. Perhaps the grossest misunderstanding...is that abused women can solve their problems by simply leaving their battering husbands. (Affidavit of R. C. Gelles, State v. Kelly, 1982, p. 350).
>
> ...that, since he had beaten her so many times before without killing her, it was unreasonable to think he was going to kill her this time (Gillespie, 1989, p. 24)

It is argued by these legal commentators that, as a result of these misconceptions, jurors are unlikely to view the battered woman's version of "what happened" as falling within

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3. It is contended that these misconceptions are not unique to the lay public alone, but are also held by judges, attorneys, police personnel, etc. For a discussion of how these biases can effect the processing of the defendant at other stages of the criminal proceedings see Gillespie (1989).

the traditional bounds of self-defense, which requires that the defendant, at the time of the killing, had a reasonable belief that she was in imminent danger of death or great bodily harm from her adversary and that the force that she used against her adversary was a necessary and reasonable response to avoid this danger. In some instances, there is also a requirement that the defendant have exhausted other reasonable means to escape before applying the use of deadly force.[4] In essence, a verdict of not guilty on the grounds of self-defense indicates that the killing was a reasonable and necessary response to the situation the woman confronted and thus, completely exonerates her.[5]

The woman's account of both the nature of her relationship and the events surrounding the killing are difficult for the jurors to comprehend as reasonable responses to the situation, it is argued (e.g., Ewing, 1987; Gillespie, 1989; Walker et al., 1982), because of the misconceptions they hold about battered women. This is especially so since the circumstances surrounding the homicide do not typically fit the traditional notion of self-defense.[6] For instance, in some cases the woman may have applied the deadly force when

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4. In Canada, complex distinctions in the laws of self-defense arise on the basis of the situation in which the killing occurred (e.g., whether it was a provoked or unprovoked assault, whether the defendant was the aggressor, etc.) and the retreat element is only applicable to situations in which the defendant was the aggressor (Stuart, 1987). As a general rule, in the United States the retreat requirement has been adopted by many of the eastern states, and is absent in most of the western states. For those states in which the retreat requirement is adopted, the situation is still further complicated by some additional exceptions to the requirement under some conditions in some states (e.g., assault by a stranger, assault taking place in the home, etc.) (Fiora-Gormally, 1978; Gillespie, 1988). Whether the retreat obligation is legally applicable or not, the woman's failure to escape from the situation is certainly a circumstance that jurors are likely to consider when evaluating the reasonableness of the defendant's actions.

5. Although the claim of self-defense is raised by the defendant, it is not the defendant who must prove that self-defense applied. Rather, the burden is on the prosecution to prove that it was not a situation of self-defense. Moveover, a verdict of not guilty does not necessarily indicate that the self-defense claim has been accepted by the triers. It could also imply that the prosecution did not produce sufficient evidance (i.e., beyond a reasonable doubt) to convict the defendant on any of the other charges.

6. A more fundamental difficulty confronting the defense has been raised by numerous feminist legal scholars. This difficulty stems from the sex-bias inherent in the traditional doctrine of self-defense (Crocker, 1985; Gillespie, 1989; Fiora-Gormally, 1978; Podebrodsky & Triggiano-Hunt, 1988; Schneider, 1980, 1986; Schneider, Jordon, and Arguedas, 1981). It is argued that the legal elements comprising self-defense do not acknowledge the battered

no "immediate" threat was apparent, such as after a battering incident had already occurred. It is contended that jurors' assessments of the reasonableness of the woman's beliefs and actions will be plagued by the following issues: .

> ....why she stayed in the relationship and did not leave her home; why she did not call the police or get other assistance before acting, why she believed at the time she responded the danger she faced was imminent; and was therefore different and more serious than other times when she had been beaten, had not acted, and had survived. (Schneider, 1986, p. 201)

These problems are often exacerbated by the case presented by the prosecuting attorney, whose role it is to convince the jurors that they should convict the defendant. Since there are seldom witnesses to the actual incident, and often few witnesses who can corroborate the defendant's account of the nature of her domestic relationship[7] (Crocker, 1985; Gelles & Straus, 1988; Schneider, 1986), the prosecution's case is often based on circumstantial evidence and conjecture:

> The prosecutor's two main weapons are most often to cast doubt on her credibility and veracity as a witness and to convince the jury, even if her story is true, her perception that she was in such serious danger was unreasonable (Gillespie, 1989, p. x)

> ...the prosecutor can argue to the jury that if there had indeed been the violence that she claims, she would surely have left him long ago. She would have called the police...she would have told her neighbors, her friends, her minister, her mother. All of the ways in which so many beaten women manage to hide what they perceive as their humiliating and shameful situation is turned against them (Gillespie, 1989, p. 24).

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woman's circumstances and viewpoint, but rather reflect a male orientation of self defensive actions. Gillespie points out that the laws of self-defense developed out of two types of situations, both of which are different from the situations that battered women confront: (1) a sudden attack by a stranger, and (2) a fight between equals that gets out of hand. For a historical, legal, & societal account, the reader is referred to Gillespie (1989; see also Crocker, 1985; Schneider, 1986; Schneider, et al., 1981).

7. In some cases the judge has actually restricted the testimony pertaining to the violence in the relationship. In Hawthorne v. State (1982), for example, the defense's testimony regarding prior abuse was restricted to the last two weeks prior to the fatal incident.

Thus, the prosecuting attorney will typically draw upon jurors' beliefs to discredit the credibility of the defendant's testimony. For instance, in some cases, the prosecution has argued that the woman is exaggerating about the abuse, for if the beatings were as severe as she claimed she would have left the situation earlier, she would have called for help, she would have informed her family, and so forth (Ibn-Tamas v. United States, 1979; State v. Kelly, 1982; see, for anecdotal accounts, Gillespie, 1989).

In an effort to overcome these obstacles, some researchers, as well as legal scholars, have argued that it is useful, perhaps even necessary, to provide jurors with information about battered women and battering relationships (Blackman, 1986; Blackman & Brickman, 1984; Cross, 1982; Crocker, 1985; Eber, 1981; Ewing, 1987; Schneider, 1980; Schneider et al., 1981; Thar, 1982; Tyfault, Browne, & Walker, 1987; Walker, 1984; Walker, Thyfault, & Browne, 1982; Walter, 1982; Waltrip, 1986).[8] The information offered by an expert on battered women would allows jurors to couch the defendant's claim of self-defense within a context that takes account of the woman's unique perspective and circumstances; it would provides an alternative framework from which to interpret the trial information about the defendant's mental state and perceptions at the time of the killing.[9]

Typically, the expert in these trials testifies about the common patterns found in violent battering relationships. Specific reference is made to the "battered woman syndrome", which refers to a body of research findings on the common characteristics and perceptions of women who have been subjected to continuous physical abuse by their mate

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8. Although the thesis focuses on the use of the testimony at the trial level, it has been utilized at other stages of the legal process (e.g., before a grand jury, on motions to dismiss an indictment, on motions for retrial, and sentencing,) (see, Blackman, 1986; Levinson, 1986; Podebrodsky & Triggiano-Hunt, 1988). It has also been used in cases other than self-defense homicides (e.g., to contest a batterer's insanity defense, State v. Baker, 1980; as a basis for a defense of duress in a case of welfare fraud, State v. Lambert, 1984).

9. In the past the defense has often resorted to the use of insanity pleas or arguments of impaired mental state (State v. Hughes, 1977; Browne, 1987; Gillespie, 1989; McKinnie, 1981). The defense of temporary insanity has also been recently advocated by Cipparone (1986) in cases in which self-defense is not likely to be successful.

(Walker, 1979, 1984). The research presented is based heavily on the work of Dr. Lenore Walker and her theory of a battering cycle. This theory consists of three recurring stages (Walker, 1979; 1983, 1984): a tension building stage (a buildup of minor abusive events), an acute battering stage (an uncontrollable explosion of violence), and a loving or contrition stage (a period of relative calm). The theory of "learned helplessness" is also invoked to explain the battered woman's sense of psychological "paralysis" and perceived helplessness to control events in her life. The expert employs these theories to help the jury understand the beliefs and perceptions held by these women, as well as the psychological factors that operate to keep them in the abusive relationship (for a critique of this literature, see Faigman, 1986; Gelles & Straus, 1988).

Usually, the testimony also covers a host of other social psychological factors that contribute to the battered woman's perceptions of fear and inability to leave the situation, such as her isolation (imposed by the batterer's restrictions), the effect of the violence on the woman's perceptions of danger, the feeling of fear that if she left she would be subjected to greater abuse, the few friends or outside contacts that she has, the sense that alternatives are not available to her, the sense of guilt or shame she experiences, her low sense of self-esteem, and her traditional beliefs about the home and family. A more complete presentation of the information typically conveyed by the expert can be found in the trial transcript presented in Appendix A.

As the content of the expert's testimony conveys, its purpose is to provide the jurors with a theoretical context (i.e., the context of a battering relationship) for evaluating the "reasonableness" of the defendants' beliefs and actions.[10]

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10. It is argued that battered woman syndrome is not a defense in and of itself, but instead is used to corroborate a defendant's claim of self-defense or provocation (see Bochnak, 1981; Schneider, 1986; Sheehy, 1987). Some commentators, however, have interpreted battered woman syndrome testimony as an attempt to introduce a separate defense of self-defense (Acker & Toch, 1985; Buda & Butler, 1984; Mitchell, 1978; Rittenmeyer, 1981). For instance Rittenmeyer, an opponent to the introduction of the testimony, has contended that the use of the expert testimony grants the battered woman a "unique right to destroy her tormentor at her own discretion". A separate standard of self-defense is not, however, the intended purpose of the testimony. Rather it is essential information that must be conveyed

> ...such evidence serves at least two basic functions: enhancement of the general credibility of the defendant's testimony about her relationship to the deceased and support for the defendant's testimony about her state of fear and belief in imminent danger (Morrison v. Bradely, cited in McKinnie, 1981)

The testimony provides information about the woman's state of mind at the time of the killing (e.g., why the defendant may have perceived herself in a situation of imminent harm and feared for her life) and also attempts to dispel any misconceptions and myths jurors may have about abused women. Thus, aspects of the woman's actions that jurors may have found particularly problematic or unreasonable, such as why she did not leave the domestic relationship, are provided with an explanation.

Although testimony regarding the battered woman syndrome has been introduced in at least two cases in Canada, the appellate courts have not yet handed down any rulings on its admissibility (Brodsky, 1987; Sheehy, 1987). Within the American courts, however, its introduction has been vigorously debated in the legal community and examination of U.S. appellant decisions also indicates a lack of uniformity in the court's decisions.[11] As attempts to utilize the testimony increase in Canada, the issues raised in the American courts are quite likely to surface here as well. In order to appreciate the controversy surrounding its introduction, it is first necessary to consider the legal criteria employed by the courts for deciding the admissability of expert testimony in general.[12]

First of all, as with any evidence, expert testimony must meet the "relevancy"

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to help the jurors understand the woman's different experiences so that "they can fairly apply the same legal standards" to her (Schneider, 1986, p. 214).

11. Of some of the courts that have ruled on its admissibility, the majority have upheld its introduction (e.g., Hawthorne v. State, 1982; Ibn-Tamas v. United States, 1979; People v. Minnis, 1983; People v. Torres, 1985; State v. Allery, 1984; State v. Kelly, 1982; Smith v. State, 1981; State v. Anaya, 1981; Terry v. State, 1985), while some have excluded it (Buhrle v. State, 1981; Fielder v. State, 1985; Mullis v. State, 1981; People v. White, 1980; State v. Thomas, 1981).

12. Although some variations in interpretation exist, the Canadian courts apply similar standards as the U.S. courts for deciding the admissibility of expert testimony (Brodsky, 1987).

requirement, which stipulates that the evidence must bear on the issues or facts to be decided in the case; the testimony must assist the triers of fact in some manner, either by aiding in their understanding of evidence or in their determination of the particular facts in dispute (Cross, 1974; Lempert & Saltzburg, 1984). Moreover, the probative value of the testimony must not be outweighed by any potential adverse or prejudicial effects. A perusal of the legal literature presents a "mixed bag" of concerns regarding the prejudicial impact of expert testimony. These concerns tend to reflect two divergent effects that may accompany the introduction of the testimony; the testimony is regarded as information that will either unduly sway, or conversely, merely confuse, the jurors (for discussions of these, see generally, Giannelli, 1980; Inwinkelried, 1987; Monahan & Walker, 1986; Mosteller, in press).[13]

In addition to these criteria the expert testimony must also satisfy three other standards of admissibility (Cross, 1974; Lempert & Saltzburg, 1984): The expert must be sufficiently skilled and qualified, either by education or experience, in the particular field of inquiry. The proffered testimony must be deemed scientifically reliable.[14] And finally, the

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13. Consider just some of the following (see generally, Giannelli, 1980; Inwinkelried, 1987; Monahan & Walker, 1986; Mosteller, in press): the testimony is accompanied by an "aura" of trustworthiness and reliability, and thus jurors will give excess weight to it; jurors will view the expert as a credible source and will uncritically accept the expert's conclusions; jurors will be incapable of assessing the validity of the testimony and will, therefore, "blindly" accept it; the testimony will divert the jury's attention from legally relevant issues; the testimony will merely confuse and mislead the jurors.

14. Universal standards of reliability are difficult to discern in the legal literature. In Canada, to determine whether expert testimony is sufficiently reliable, the courts apply a relatively conservative test that requires that the scientific principle upon which the testimony is based should be "sufficiently established to have gained general acceptance in the particular field" (Regina v. Medvedew, 1978, p. 23). This test is similar to one articulated in the United States (Frye v. United States, 1923), which requires that the scientific validity of the evidence must be generally accepted by experts in the particular field of inquiry. Although some of the states also adhere to a strict application of the Frye standard, in most states there has been a substantial erosion of the test (see Giannelli, 1980, 1983). For instance, some have held that only the technique or methodology employed by the expert must be "generally accepted within the scientific community" (Dyas v. United States, 1977). In still other jurisdictions of United States, courts have taken the position "that any relevant scientific evidence supported by qualified expert witnesses should be received unless there are specific reasons for its exclusion, such as the danger of prejudice or misleading the jury" (Lempert & Saltzburg, 1984).

testimony must provide the jurors with unique information, which is beyond their common understanding.

Discrepancies in legal and scholarly opinions regarding the admissibility of battered woman syndrome testimony rarely reflect any qualms about the expert's qualifications (Leary, 1985). Rather, differences in opinion generally stem from conflicts over the scientific reliability of the testimony and divergent views about its informational value and impact. The courts have established criteria for determining the reliability of expert testimony (see footnote 14) and decisions concerning the reliability of battered woman syndrome testimony will ultimately depend on the established consensus of experts in the field. Dodge and Greene (1990) have begun to address this issue empirically and the results of their work tend to indicate that some consensus regarding the cause and effects of spousal abuse can be found among experts in the field. After reviewing the research findings in the area, Dodge and Greene constructed an eighteen item questionnaire that assessed dimensions of spousal violence for which they could find some agreement in the research literature (e.g., a woman's sense of self-blame, anxiety and depression, a woman's willingness to remain in the situation despite suffering, a woman's willingness to stay because of promises made by her mate never to hurt her again, a woman's belief that her husband might kill her, her belief that she might need to use deadly force, etc.).

They then administered the questionnaire to a sample of professionals who had published research in the area,[15] with sixty-two percent of the sample (n=45) responding to the questionnaire. If one accepts Dodge and Greene's sample of experts as representative, there are some grounds for concluding that considerable consensus exists among experts in the relevant scientific community. Using a score of two or less on a seven-point scale as indicative of agreement with current research findings, they found 82% to 98% agreement

15. For an example of a similar approach taken on the reliability issue in the area of expert testimony regarding eyewitness unreliability, see Kassin, Ellsworth, & Smith, 1989).

among the experts on fourteen of the eighteen items.[16]

A perusal of the scholarly literature reveals a variety of positions on how jurors would be assisted and influenced by the testimony on the battered woman syndrome. For example, as already suggested, some researchers and scholars have argued that the psychological effects of an abusive and violent relationship are beyond the understanding of the average person; therefore, an expert is needed to inform the jurors about these matters (Blackman, 1986; Blackman & Brickman, 1984; Cross, 1982; Crocker, 1985; Eber, 1981; Ewing, 1987; Kaas, 1982; Schneider, 1980; Schneider et al., 1981; Thar, 1982; Tyfault, Browne, & Walker, 1987; Walker, 1984; Walker, Thyfault, & Browne, 1982; Walter, 1982; Waltrip, 1986). Other legal scholars and practitioners, however, contend that the informative function provided by the expert is not necessary and that the issues addressed by the testimony could be decided by laypersons on the basis of common experience (e.g., Acker & Toch, 1985; State v. Thomas, 1981). Although only a few studies have directly assessed the lay public's beliefs about battering relationships, those that have tend to suggest that the general public does hold some views that are at variance with the conclusions drawn by experts in the field (Ewing & Aubrey, 1987; Gentemann, 1984; Greene, Raitz, & Lindbald, 1989; Saunders, Lynch, Grayson, & Linz, 1987).

Dodge and Greene (1990), for instance, administered the same questionnaire that was used in the survey of experts described above to prospective jurors who were awaiting jury selection, thereby permitting a direct comparison between laypersons and experts. Significant differences between the laypersons and the experts were found on twelve of the

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16. In further support of the admissibility of the testimony, the American Psychological Association argued in a legal brief submitted to the court on behalf of a defendant's request to admit the testimony (State v. Kelly, 1982, cited in Amicus Briefs, 1986), that the study of battered women was sufficiently well developed with "a sound psychological basis" and an acceptable research methodology. It also held that "researchers have reached very similar conclusions about the trait characteristics of battered women and the effects of the battered woman syndrome, thereby corroborating the reliability of the methodologies and theories used" (p. 245).

eighteen items, ten of which concerned dimensions for which they had found consensus among the experts: The jurors were less likely, as compared to the researchers, to ascribe feelings of anxiety and depression, and feelings of self-blame and dependency, to battered women. They were also less likely than the experts to believe that a battered women might be persuaded to stay by promises from her mate never to harm her again, would find it difficult to leave without fear of future harm, would believe that her husband might kill her, and that the use of deadly force might be necessary for protection. Finally, they were more likely than the experts to believe that battered women are emotionally disturbed, masochistic, and that a battered woman could leave if that is what she really wanted. It should be noted, however, that, overall, people were relatively knowledgeable on aspects of spouse abuse, with less than twenty percent of the jurors responding in the opposite direction of the experts on the majority of items. The results of another study that included the opinions of professionals (Saunders, et al., 1987), as well as the findings of other research also tends to suggest that the average juror may hold negative attitudes about battered women (Ewing & Aubrey, 1987; Gentemann, 1984; Greene et al., 1989; Kalmuss, 1979).

The majority of appellate courts have generally sided with the position that the testimony would provide instructive and unique information to the jurors, but the opposite opinion can also be discerned in some appellate decisions. For example, consider the divergent views expressed in the rulings below:

> ...this testimony....is aimed at an area where the purported common knowledge of the jury may be very much mistaken, an area where jurors' logic, drawn from their own experience, may lead to a wholly incorrect conclusion, an area where expert knowledge would enable the jurors to discredit their prior conclusion as being common myths rather than common knowledge. (State v. Kelly, 1984, p. 378)

> The jury is well able to understand and determine whether self-defense has been proven in a murder case without expert testimony...The jury will base its decision upon the material and relevant evidence concerning the participant's word and actions before, at, and following the murder, including the defendant's explanations of the surrounding circumstances ...Finally, we believe the expert testimony offered here would tend to stereotype defendant, causing the jury to become

> prejudiced. It would decide the facts based on typical, and not the actual facts (State v. Thomas, 1981, pp. 139-140).

How, if at all, expert testimony about battered women influences jury behavior has received little empirical attention. At present, we are left with "no more than anecdotal, case-type evidence" about its impact (Blackman & Brickman, 1984). For example, Walker (cited in Ewing, 1987), who has testified extensively in court on the topic of the battered woman syndrome, stated that at best the testimony may reduce a jury's verdict from murder to voluntary manslaughter.[17] In a review of homicide trials involving battered women, Ewing cited 44 cases (out of 88) in which the defense attempted to introduce expert testimony on battered woman syndrome. Of the 18 trials in which the testimony was excluded, all the accused were convicted. In contrast, of the cases in which the expert testimony was introduced, one third of the accused were acquitted of the crime. Although these data suggest that the testimony may influence decisions, the trials did differ from each other on a variety of dimensions besides the presence or absence of expert testimony.

The assertions underlying many of the opinions regarding both the informational value and the potential impact of battered woman syndrome testimony have been based largely on speculation and intuition, rather than empirical evidence. Yet, they are assertions that are amenable to empirical investigation to determine their validity. Systematic research that addresses these issues would certainly provide us with greater insight into the influence of the testimony. Thus, the present research addressed this area of neglect by empirically examining the impact of battered woman syndrome testimony on the jury decision process. Before turning to this research, however, a general model of juror decision making, which was used to guide the research, is first presented. The existing literature examining the effects of social science experts on jury behavior is also reviewed. Although the research

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17. Manslaughter refers to a killing that is committed in the heat of passion caused by a sudden provocation. Unlike self-defense it does not completely exonerate the defendant. It does, however, render the act "excusable" to some extent because of the mitigating factor of provocation. Accordingly, it is associated with a more lenient sentence than a verdict of murder.

examined is not specific to expert testimony pertaining to battered women, it provides some insights into how expert testimony might affect the jury decision process in general.

Models of Juror Decision Making

Recent conceptualizations of the jurors' task have emphasized the individuals' cognitive organization or representation of the evidence.[18] These models stress the jurors' attempt "to understand the meaning of the evidence in order to develop an interpretation or explanation for it" (Pennington & Hastie, 1986). Bennett (1978, 1979; see also Bennett & Feldman, 1981), an early proponent of such an approach, proposed a model of the decision process that revolved around social and psychological storytelling concepts. He viewed the "story" as an implicit framework of judgment that people bring with them to the courtroom. The basic claim posited in the model was that jurors employ storytelling practices to organize and guide interpretation of trial information. In the model three interpretive functions, which the juror performed as he/she listened to the vast amount of trial information, was specified: (1) the central action of the story was located, (2) inferences regarding the relationship between key elements in the story were drawn (i.e., connections between actions and elements), and (3) evaluations of the internal consistency and plausibility of the story were made.

Bennett developed this storytelling model on the basis of approximately 100 trial transcripts and jurors' accounts of their experiences. The model has not been subjected to empirical examination, but the model itself is rather loosely defined and, as others (Pennington & Hastie, 1981; Philips, 1983) have also pointed out, is not yet precise enough to provide a full psychological account of the juror decision process. The perspective adopted by Bennett, however, did set the stage for representational approaches to the study of juror decision making.

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18. These resent conceptualizations of juror decision making were developed in reaction to the computational models that prevailed in the early 1970's (for a review of these models, see Pennington & Hastie, 1981; Penrod & Hastie, 1979).

The most theoretically advanced representational model of the jurors' task is the Story Model developed by Hastie and his colleagues (Hastie, Pennington, & Penrod, 1983; Pennington & Hastie, 1986). Similar to Bennett, Pennington and Hastie (1986; see also Hastie, et al., 1983) contend that "story construction enables critical interpretive processing and organization of the evidence such that evidence can be meaningfully evaluated" (p. 245). In the model, which is considerably more elaborate than Bennett's model, the jurors' task is described in terms of three components: (1) "story construction", (2) "verdict category representation", and (3) "story classification". The first subtask, which takes place during and after the evidence presentation, involves the active organization of the trial evidence into a structural form that describes "what happened". Hastie et al. (1983) contend that general knowledge about the "structure of human purposive action sequences", which is characterized as an abstract episode schema, allows the juror to organize the events into causal and intentional relations, thereby producing one or more plausible accounts of what occurred. Drawing on findings from the literature pertaining to narrative discourse comprehension, they proposed that:

> The set of relations expressed in the episode schema...includes events that initiate a main character's psychological states and goals that provide reasons for the character's subsequent actions resulting in an outcome or consequence (1986, p. 243).

Thus, the juror organizes the trial information into a coherent whole or story by establishing the causal and intentional relations between the events described at the trial. Through the incorporation of the evidence into this story form, meaning is, thus, assigned to it.

During the second subtask, the verdict alternatives or options (e.g., for a charge of murder, options of first degree murder, second degree murder, manslaughter. etc.), which the judge outlines at the end of the trial, are represented by the jurors as categories with "defining features and a decision rule specifying their appropriate combination". For each verdict option, the appropriate constellation of identity, mental state, circumstances, and actions must be understood and specified by the juror. For example, for the verdict

category of first-degree murder, the juror must understand that the following conditions must be met: the accused must be correctly identified as the killer (identity); the accused must have intended and planned the act (mental state); the accused must have initiated the attack (actions); and there must have been insufficient provocation (circumstances).

Finally, at the third or story classification subtask, the juror searches for the best possible match between the story features constructed and the verdict categories. Pennington and Hastie suggest that the correspondence between the elements of the story structure (e.g., initiating events, psychological states, etc.) and the category attributes of the verdicts (e.g., circumstances, mental state, etc.) makes this final stage of the decision process rather straightforward, albeit still an extremely complex task. To illustrate, consider an example provided by Pennington and Hastie:

> Suppose that a person believes that the defendant...argued with the victim (initiating event), became very angry and decided to kill him (psychological state and intention), obtained a weapon, found the victim, got in a fight and stabbed the victim (actions), resulting in the victim's death (consequence). The juror must decide which verdict category this story exemplifies by checking the mental state required by a verdict category (e.g., intent to kill for first degree murder) against the psychological states and the goals of the highest level episode of the believed story (intent to kill). There is a clear match in this example. However, in matching verdict-required circumstances (insufficient provocation) against the story-initiating events and states (argument), the juror has to judge whether an argument is an example of sufficient provocation. This matching process continues for all verdict attributes, for each verdict category. The bestfitting verdict category is retained as a tentative decision (p. 244).

The first empirical test of the model (Pennington & Hastie, 1986) was designed to assess the plausibility of the three essential subtasks of the decision process: Are jurors' accounts of the evidence representative of well formed stories? Do the jurors' various understandings about verdict categories represent a list of defining attributes? And, finally, are story structures consistently related to verdict decisions? After viewing a videotape of a mock murder trial, simulating jurors were individually interviewed as they reached a verdict decision from among four alternatives (first degree murder, second degree murder,

manslaughter, or not guilty due to self-defense). Their cognitive representations of the trial testimony and their representations of the four verdict options, which the researchers had elicited in the interviews, were then content analyzed.

As the researchers had hypothesized, jurors' verbal protocols displayed story structures that were characterized by "causal event chains that had a hierarchical structure" and not other possible structures (e.g., evidence stored as it was presented, witness by witness; evidence stored in the terms of legal arguments, etc.). The jurors had organized the events referred to in the testimony by causally connecting them into a coherent story structure. Pennington and Hastie's analyses also revealed that jurors' references were equally divided between events directly testified to in the trial and inferences regarding actions, mental states, and goals. It was these inferences that filled in the testimony and completed the episode structures of the stories that were constructed. That is, initiating events, which were referenced from the testimony, caused actors to have internal reactions that caused actions that had consequences (p. 249). In addition to finding support for the first subtask of the model, support for the second subtask was also found. Jurors produced lists of critical attributes for each of the verdict categories, and, although these were not as complete as the legal definitions of the verdict categories presented to them in the study, they closely paralleled these definitions.

Finally, the researchers examined whether jurors' representations of the trial testimony served any functional purpose. To investigate this issue, Pennington and Hastie explored the relation between story and verdict representations. If jurors were performing their task as characterized by the Story Model, then alternative cognitive representations of the evidence should have been associated with different verdict choices. Using a measure of shared features, consistent central story structures for each of the verdict groups (i.e., jurors rendering the same verdict) were discovered. As they had predicted from the model, different story constructions of the same evidence were correlated with alternative verdict choices, and, furthermore, these differences corresponded to the legal features required of

the verdict categories, thus providing support for the functional role of evidence representation. Moreover, verdict choices were not systematically related to verdict category representations. Pennington and Hastie concluded that the critical feature of the decision process appeared to involve the jurors' cognitive representation of evidence, rather than any differential comprehension of verdict options.

This initial study, because it was correlational, did not rule out the alternative hypothesis that jurors' decisions compelled them to construct stories and explanations merely to justify their decisions. Two subsequent studies conducted by Pennington and Hastie (1988) have ruled out this explanation, thus providing further support for the claim that story construction plays a functional role in reaching decisions. In the first of these experiments, Pennington and Hastie tested whether or not people spontaneously generated causal explanations of the trial information in the form of a story. On the basis of both the Story Model and the literature pertaining to memory and text comprehension, they generated predictions about how people's representations of evidence would affect their recognition memory. To test these predictions, Pennington and Hastie developed a series of evidence items from their original stimulus material. Subjects were presented with the items, one at a time, and then asked to render a verdict from among two alternatives, guilty of murder or not guilty due to self-defense. They were then given a recognition test that consisted of actual items from the stimulus material ("old" items) and "new" items that had not been presented as evidence. All test items (old and new) had been previously classified according to whether or not they corresponded to the different stories presumed to underlie the two verdict choices (based on the results of their previous interview study).

If subjects' spontaneously constructed a representation of the evidence in the form of a story, as the model would have one predict, then recognition should have been better for "old" test items that referred to events that were part of the story constructed by the subject, as opposed to the story associated with the subjects' rejected verdict alternative. In contrast, recognition should have been poorer for "new" test items that referred to events in

the story corresponding to the subjects' verdict choice, since these items would be confused with old items underlying the verdict choice. In essence, the researchers hypothesized differential recognition rates as a function of the verdict decision, since different stories were presumably underlying the alternative verdict choices. Support for these predictions were found. Greater correct (old items) and false (new items) recognition rates were found for those items in the story that presumably corresponded to the subjects' verdict choice.

The second experiment actually manipulated the ease with which a particular story could be abstracted from the trial testimony. Pennington and Hastie posited that if story construction preceded and, thus, actually influenced verdicts, then the easier it is for an individual to construct a particular story from the trial evidence, the more likely it should be that he/she will render a verdict consist with that story. To test this hypothesis, Pennington and Hastie divided the evidence items from Experiment 1 into prosecution and defense sets. The prosecution set consisted of guilty of murder items, plus some items that were either specific to both or neither story, and the defense set consisted of not guilty items and some items that were either specific to both or neither story. For each of these sets, two different orders of presentation were created. In one, the "story order" set, items were arranged into the actual temporal sequence of the event (a murder) that was under dispute, whereas in the other, the "witness order", the order of items closely followed that of the original trial. Subjects were then presented with one of four possible combinations of these orders (both or neither of the two sides of the case presented in story order, only one side presented in story order) and asked to render a verdict decision. Pennington and Hastie found, as they had predicted, that the order manipulation did shift verdict choices in the expected direction. That is, when the prosecution's case was presented in a story order and the defense's case was not, 78% of the subjects rendered guilty of murder verdicts, whereas only 31% of the subjects rendered guilty verdicts when the defense's case was presented in a story order and the prosecution's case was not. In contrast, when both or neither side was presented in story order, no systematic differences in verdict choice were found. In summary, then,

this study as well as the others conducted by Pennington and Hastie provide considerable support for their "explanation-based" approach to the decision task facing the juror.

The Story Model not only has strong intuitive appeal, it also provides a useful theoretical context for both understanding and generating hypothesis about how expert testimony can influence the decision process. It is an explanation-based approach that is "motivated by and embedded in the general cognitive approach to human behavior" (Pennington & Hastie, in press). Thus, one can ask, why, and how, might individual jurors come to construct different story interpretations? The model posits two sources that the juror draws on to construct his/her interpretation of the events. One of these sources is the actual trial data, and the other is the jurors' "factual" knowledge of the social and physical world. The model would, therefore, predict that different story constructions would result from differences in either or both of these two reasoning sources, trial evidence or world knowledge. Differences in story construction as a function of differential trial evidence is to be expected. The way in which differences in jurors' knowledge structures (i.e., what jurors bring with them to court) can lead to different cognitive representations and interpretations of the same evidence, however, forms a useful basis for understanding the variability among jurors' decisions.

Bennett (1978, 1979) contends that individuals who "hold different norms and beliefs about social behavior" (p. 179) may disagree about both the meaning and plausibility of the same stories. Pennington and Hastie (1986) also concur that individuals with "different attitudes, experiences, and beliefs about the social world, would reach different conclusions" given the same information (p. 254). Some indirect support for this hypothesis can be found in a jury simulation study conducted by Thompson and his colleagues (Thompson, Cowan, Ellsworth, & Harrington, 1984). This study found that death qualified jurors (those in favor of the death penalty), as opposed to excused jurors (those opposed to the death penalty), were more likely to render guilty verdicts. In addition, it was found that death qualified jurors interpreted testimony in a fashion that was more favorable to the prosecution than did

excused jurors. These researchers, therefore, concluded that the relationship between jurors' attitudes and verdicts was mediated through the jurors' differential interpretation of the evidence. In a similar vein, Casper and his colleagues (Casper, Benedict, & Kelly, 1988; Casper, Benedict, & Perry, 1989) have found that jurors' attitudes and beliefs were indirectly related to jurors' decisions in civil damage cases through their mediating effect on recall and interpretation of evidence. Berg and Vidmar (1975) found that a measure of authoritarianism was systematically related to both verdicts and the focus given to different pieces of trial evidence, thus suggesting the potential mediational role of a general personality disposition.

Given that the jurors' factual or social knowledge may differ, and additionally, may not mirror current states of knowledge in particular fields, the relevance of such an approach to battered woman syndrome testimony becomes readily apparent. Recall that the rationale for providing the battered woman syndrome testimony is that jurors lack a general knowledge structure or framework for understanding various aspects of the defendant's beliefs and behavior that are raised in the trial proceedings. That is, key interpretive issues of the case are presumed to fall outside the range of common understanding. Thus, the expert is called to testify about the nature of battering relationships, thereby providing jurors with an alternative interpretation of the meaning of particular beliefs, actions, and circumstances. If the expert testimony provides the juror with a novel perspective and this framework is accepted by the jurors, then it follows that a different interpretation of certain events, that is, those addressed by the testimony, should follow. Without this testimony, it is difficult for the juror to understand the meaning of the circumstances surrounding the actions, and an alternative (and potentially wrong) construction may result. Some evidence for this hypothesis can be discerned in the finding of previous studies that have examined the impact of court experts on other content domains and, thus, the findings of this work are briefly reviewed.

Empirical Studies Examining Expert Testimony

Similar to the concerns that have been raised with respect to jurors' misconceptions

about battered women, concerns regarding jurors' knowledge about other content topics have also emerged. Probably the most familiar and well researched of these involves eyewitness identifications. Psychological research has indicated that jurors overestimate the accuracy of eyewitness testimony, and thus, place too much weight on its informational value (Cutler, Penrod, & Stuve, 1988; Deffenbachen & Loftus, 1982; Loftus, 1979, 1986; Wells, 1984; Wells, Lindsay, & Ferguson, 1979; Yarmey, 1979). This claim, that jurors fall prey to various misconceptions when evaluating eyewitness testimony, has also been accompanied by proposals to rectify the problem through the use of expert testimony (e.g., Loftus, 1983; Wells, 1984; Wells et al., 1979).[19]

A number of studies conducted over the past decade have evaluated the impact of expert testimony regarding eyewitness fallibility on the jury decision process (Fox & Walters, 1986; Hosch, Beck, & McIntyre, 1980; Loftus, 1980; Maas, Brigham, & West, 1985; Wells, Linday, & Tousignant, 1980). Although the studies differ on a number of dimensions (for a comparison of three of these studies, see Hosch, 1980), they have all manipulated the presence versus absence of the testimony. For example, Loftus (1980) had subjects read a brief written description of a criminal trial involving an eyewitness identification. Half of the subjects also read expert testimony presented by the defense, which included information on the unreliability of cross-racial identification, the effects of stress, and so forth. Compared to subjects not exposed to this additional testimony, these subjects were less likely to render guilty verdicts. Replicating this study using small groups of deliberating jurors, Loftus also found that the presence of the testimony increased deliberation time and decreased the likelihood that a unanimous verdict would be reached by the group (although no statistical test of the latter finding was presented). Subsequent examination of the deliberations indicated that juries spent more time discussing the content of the eyewitness testimony,

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19. The introduction of expert testimony on eyewitness identification has not been universally accepted (see, for example, the debate on expert testimony pertaining to eyewitness identification, e.g., Konecni & Ebbesen, 1986; Loftus, 1983, 1986; McCloskey & Egeth, 1983a, 1983b).

which Loftus interpreted as "perhaps enhancing their scrutinization." It is difficult to interpret this effect on time, however, since no distinctions were made between jurors' discussions of the expert testimony and their discussions of the particular eyewitness.

Hosch et al., (1980) found similar results on two different samples of subjects, university students and community residents. This study discovered that when jurors were exposed to expert testimony about eyewitness unreliability, there was an increase in the total time spent discussing aspects of the eyewitness identification (excluding discussion specific to the expert testimony), as well as an increase in the time spent discussing other aspects of the evidence presented. Hosch et al. concluded that the expert testimony not only created a greater sensitivity to the complexity of the eyewitness identification, but also induced a "general sensitivity to the complex interrelationships among the other evidence". The findings concerning the effects of the expert testimony on verdicts, however, were tempered by a ceiling effect. All juries, in both samples, acquitted the accused. Another major limitation of the study concerns the relatively small sample size employed (two juries per condition).

In a more sophisticated study, Wells et al. (1980) explored the impact of expert eyewitness testimony on jurors' assessments of eyewitness accuracy by manipulating two additional variables, the accuracy of the eyewitness and the eyewitness's witnessing conditions. Using their "staged-crime" paradigm (see Wells et al., 1979), actual eyewitnesses, who served as stimuli for the subject-jurors, were classified in terms of their accuracy (accurate or inaccurate) and in terms of the conditions under which they viewed the staged crime (poor, moderate, or good witnessing conditions). Jurors were then provided with a videotaped cross-examination of one of these actual eyewitnesses and asked to determine whether the eyewitness was accurate. . to viewing the eyewitness, half of the jurors were also presented with additional information provided by an expert on eyewitness unreliability (e.g., nature of eyewitness memory, lack of relationship between confidence and accuracy).

Eyewitnesses who had viewed the crime under good witnessing conditions were

judged as more accurate than eyewitnesses in the other two witnessing conditions, but since no interaction between witnessing condition and expert testimony was found, Wells et al. concluded that the expert testimony did not improve the jurors' ability to take account of the witnessing conditions. Moreover, although the presence of the expert did reduce subject's reliance on eyewitness confidence as a determinant of eyewitness accuracy, the testimony did not help jurors to discriminate between accurate and inaccurate witnesses. That is, jurors were just as likely to believe an inaccurate as an accurate witness. The results of the study thus lead the researchers to conclude that the presence of the expert eliminated individual jurors' "overbelief" bias and reduced their tendency to believe the eyewitness; basically, it made them more skeptical of the testimony.

Whether the impact of the testimony depends upon its presentational form has been specifically addressed in two studies (Fox & Walters, 1986; Maass et al., 1985). Maass et. al (1985) varied two different dimensions of the expert testimony. Noting that the previous studies had varied the extent to which the expert's testimony was related to the specific witness (e.g., Hosch et al., 1980; Loftus, 1980; Wells et al., 1980), Maass and her colleagues varied the source of the testimony. In one condition, which they referred to as "sample-based", jurors were presented with general research results derived from the literature. In the other condition, "person-based", jurors were presented with information derived from interviews and tests conducted on the specific eyewitness in the case. In both instances, the testimony was presented in probabilistic fashion (45% chance of correct identification). This source variable was crossed with a dimension of causal relevance. For half of the jurors, the expert provided causal explanations for the low accuracy of eyewitness identifications, whereas for the remaining jurors, no causal explanations were provided. Two additional control groups (no expert testimony, no expert testimony or eyewitness) were also included in the study.

Overall, jurors exposed to expert testimony rendered more lenient judgments in comparison to jurors in the control condition who were not exposed to the testimony. These

former jurors also tended to be less certain of their decisions, but given that this finding is confounded with verdict choice it is uninterpretable.[20] Of greater relevance, 18% of all jury groups that were exposed to expert testimony resulted in a deadlock or "hung" jury, thus suggesting that the expert eyewitness testimony may have increased the complexity or difficulty of the deliberation. There was also a main effect for causality, such that the expert who provided jurors with causal explanations for the research findings was more influential than the expert who failed to provide causal explanations. This main effect, however, was qualified by an interaction with the source of the testimony. Although, causality had no impact when the expert's information was sample-based, the person-based information had the greatest impact when it provided causal explanations and the weakest when it provided no explanations. Furthermore, these effects for the expert testimony were enhanced following jurors' deliberations.

Along similar lines, a study conducted by Fox and Walters (1987) also points to the importance of the presentational form of the testimony. These researchers presented two versions of expert testimony, one of a general nature on the unreliability of eyewitness identification and one of a more specific nature, which included crime relevant information pertaining to the specific case. These two conditions were compared to a control group in which no expert testimony was presented. Overall, the presence of the expert testimony resulted in a decrease in the belief that the eyewitness had accurately identified the accused. It also lead to lower ratings of the extent to which the accused was guilty, and lower estimates of the general accuracy of eyewitness identification. Differences between the two types of testimony, however, were also detected. The jurors exposed to the specific testimony estimated lower percentages of correct identifications under similar circumstances, as compared to those jurors exposed to the general testimony.

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20. Given the legal standard of reasonable doubt one might expect that harsher verdicts, which were rendered by those jurors in the control group, should be associated with greater certainty.

One final study that has examined the effects of social science experts on jurors' decisions has been conducted on a different and relatively new use of social science in the courtroom, "rape trauma syndrome" evidence. It has been claimed, and recent studies tend to support this claim (Burt, 1980; Field & Bienen, 1980; Frasier & Borgida, 1988; Ross, 1983), that this testimony is necessary in sexual assault trials that revolve around the issue of consent. Jurors hold a variety of myths and stereotypes about rape and its effects on the victim, and these misconceptions, it is argued, cause jurors to question the credibility of the victim, and thus, ultimately, bias them in favor of acquittal of the defendant (e.g., Borgida & Brekke, 1985). As a result, the prosecution in these trials often attempts to introduce expert evidence to demonstrate that the alleged victim's emotional state and behavior following the incident was consistent with that of typical rape victims.

To assess the value and impact of rape trauma syndrome testimony, Brekke and Borgida (1988) conducted a series of studies that examined its impact on deliberating groups of jurors. They found that the presence of the testimony did influence judgments, but once again this impact was moderated by the presentational form of the testimony. Two presentational aspects of the testimony were investigated: the timing of the testimony and the degree to which the testimony was explicitly linked to the complainant in the trial. Brekke and Borgida reasoned that expert testimony presented early in the trial should have a greater impact than testimony presented late, since the jurors would not have had an opportunity to interpret the case facts in light of their prior beliefs. In terms of the Story Model, jurors would not construct a scenario of the events based on their prior beliefs, but rather would construct a scenario in light of the new information provided by the expert. To test this prediction, the expert testified either as the prosecution's first witness or the prosecution's last witness.

Brekke and Borgida also reasoned that the more causally relevant the expert testimony was to the particular case, the greater it's impact. Thus, some of the jurors were exposed to expert testimony about rape trauma syndrome that merely described the

standard research findings on the topic, while for other jurors, this testimony was supplemented by the expert's commentary on the likely behavior of a hypothetical victim who was similar to the rape victim in the actual case. In the latter instance there was an explicit attempt to demonstrate the connection between the expert testimony and the specific victim at trial.

The results of the study indicated that the testimony did counteract the effects of rape myths on jurors' judgments and verdicts, but only for the condition that provided a direct link between the expert testimony and the victim. The expert who provided hypothetical examples, thereby making the connection between the testimony and the defendant explicit, altered jurors' verdicts, as well as their perceptions of both the victim and the defendant. These jurors, compared to jurors in a no expert control condition, rated the rape victim as more credible and the defendant as less credible. Moreover, the effects of this testimony were enhanced when it was presented early, as opposed to late, in the trial proceedings. In contrast, the more general abstract expert testimony, regardless of when it was presented, did not have an effect. No differences in jurors' perceptions of the expert testimony or evaluations of the expert, however, were evidenced across the expert testimony conditions.

In addition to individual juror judgments, Brekke and Borgida also examined the jurors' deliberations. They found that the expert testimony that provided the hypothetical example influenced the jurors' discussion of the case facts. Although jurors did not spend much time discussing the expert testimony directly (consistent with the findings in the eyewitness literature), jurors in the hypothetical expert condition spent less time discussing the issue of the victim's resistance, whereas jurors in the no expert control condition spent considerable time noting that "the victim did not resist enough". Thus, Brekke and Borgida suggested that the presence of the testimony "might have altered jurors' expectations about typical victim behavior, thereby altering their interpretations of other case facts as well" (p. 382).

Taken as a whole, the above studies on the effects of court experts tend to indicate

that expert testimony does alter aspects of the decision process. The results of the studies examining expert testimony pertaining to potential eyewitness unreliability suggest that the testimony causes jurors to become less accepting of the eyewitness evidence and to render more lenient judgments of the accused. In those studies that have also included group deliberations, two have found that the introduction of the testimony increased deliberation time (Hosch et al., 1980; Loftus, 1980), whereas one found no differences in deliberation time (Maass et al., 1985). Two of the studies in the eyewitness domain also suggest that the impact of the expert's testimony may depend upon the form it takes. The results of these two studies point to the importance of directly linking the testimony to specific issues in the case (Maass, et. al, 1985; Fox & Walters, 1986).

The results of the study investigating the effects of rape trauma syndrome testimony (Brekke & Borgida, 1988) also suggest that whether or not jurors will use the information provided by the expert depends on how explicitly the connection is drawn between the testimony and the specific case. Otherwise, it appears that jurors may be reluctant to apply the information to their interpretations of the trial testimony. Brekke and Borgida's study also found some interesting differences in the jurors' discussions of the testimony; thus suggesting that it may alter the deliberation process itself.

What might this literature suggest about the impact of battered woman syndrome testimony on the jury decision process? Of course, caution is warranted in generalizing these findings too broadly, since the testimonies not only deal with different topic domains, but also touch upon different issues at trial (e.g., identity vs. mental state). But, if the expert's testimony on the battered woman syndrome provides an alternative framework, and this framework is accepted by the jurors, one might expect that it would result in interpretations of the trial testimony that are more consistent with the defendant's version of what occurred. These evaluations of the testimony should, in turn, be related to more lenient judgments of the defendant. Moreover, it may influence the time the jury spends discussing crucial issues under dispute or the types of interpretations that jurors apply to

these issues (e.g, why did she not leave earlier, did she have a reasonable fear, etc.).

Program of Research

To fully understand the impact of battered woman syndrome testimony, it is helpful to frame the research within the broader conceptualization of juror decision making outlined by Pennington and Hastie (1986). This conceptualization provides a way in which to explore the impact of the testimony on the entire jury decision process. It emphasizes the way in which information processing strategies mediate between specific variables and juror decisions, and it was this explanation-based approach that was adopted in the present research.

As the previous studies tend to indicate, expert testimony appears to have an effect at both the individual and the group level. It has been found to influence individual jurors' perceptions of specific aspects of testimony, and in those studies that have also included jury deliberations, it has been found to influence the jurors' discussion and treatment of the trial testimony. Moreover, the impact of the expert testimony on the decision process may depend to some extent on its presentational form. Thus, for both theoretical and applied reasons, two different forms of expert testimony about the battered woman syndrome, which reflect its actual application in trials, were investigated.

In some instances the expert on battered woman syndrome merely describes the general research finding on battered women and battering relationships (e.g., State v. Caccavale, cited in Ewing, 1987; State v. Thomas, 1981), while in other instances the expert also provides an opinion about the particular defendant on trial (e.g., Ibn-Tamas v. United States, 1979). These two forms of the testimony clearly vary in the degree to which they are explicitly connected or linked to the particular defendant on trial, and thus, may influence the extent to which the testimony is utilized by jurors.

The first study examined the impact of these two forms of the testimony on jurors' individual verdict decisions. A second study was then conducted to explore the impact of the testimony on jury verdicts and deliberation processes. Both of the studies focused on

the impact of the testimony on jurors' interpretations of the trial evidence, thereby providing information not only on whether the testimony affects outcomes, but also how it does so.

CHAPTER II

STUDY 1

Introduction

The first experiment examined whether expert testimony regarding the battered woman syndrome altered jurors' evaluations and interpretations of trial evidence, and further, how this representation of the evidence was related to verdict choice. The study was cast within the framework of the Story Model and examined the influence of the expert testimony in terms of the three subtasks of the juror decision process: story construction, verdict category representation, and story-verdict classification.

Expert testimony regarding the battered woman syndrome supposedly provides jurors with a novel perspective for evaluating key interpretive issues of the case, which otherwise would fall outside their range of common understanding. More specifically, it provides a context (the battering context) for understanding the defendant's version of the events (e.g., her beliefs and actions) surrounding the homicide. The presence of the testimony should, therefore, lead jurors to evaluate the defendant's claim of self-defense as a more plausible and reasonable reconstruction of what occurred. Not only should jurors' evaluations and interpretations of the trial testimony differ as a function of the presence of the expert testimony, but their story-verdict classifications should result in a greater number of verdicts of not guilty due to self-defense, as compared to jurors not exposed to this testimony. In addition, based on the findings of Pennington and Hastie (1986) this decision process should be unrelated to verdict category understanding.

Thus, the first experiment tested the "mediational" hypothesis that is graphically presented below.

As the diagram illustrates, the impact of the expert testimony was hypothesized to be largely a function of its influence on jurors' interpretations and evaluations of the trial evidence -- specifically, their interpretations of the testimony as it related to the defendant's mental state and actions. To assess the adequacy of this hypothesis, a procedure, which has been outlined by Baron and Kenny (1986), and utilized by other researchers in the juror decision making domain (Casper, Benedict, & Kelly, 1988; Casper, Benedict, & Perry, 1989), was applied to the data. This procedure, which uses regression analyses to distinguish the direct and indirect effects of a variable, was performed to determine whether the expert testimony indirectly influenced verdicts via its direct effect on jurors' interpretations.

The experiment also examined the impact of two presentational forms of the testimony. These forms reflected two ways in which the testimony has been allowed in trial settings. Typically, in addition to explaining the general research findings regarding the battered woman syndrome, the expert also provides a clinical opinion indicating that the woman on trial displays the syndrome (e.g., Ibn-Tamas v. United States, 1979; Smith vs. State, 1981). The expert, however, may not always provide this opinion (Gillespie, 1989; Schneider, 1980; State v. Thomas), and in some instances, the courts have not permitted the opinion evidence (e.g., State v. Caccavale, cited in Ewing, 1987). In this latter instance, the expert would merely describe the common characteristics of battered women and the nature of violent relationships without making specific reference to the defendant on trial. The defense would, however, ask the jurors to infer, on the basis of the other testimony presented, that the defendant in fact suffered from the battered woman syndrome.[1] Whether

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1. This approach reflects the general educative function of expert testimony implied in Rule 702 of the United States Federal Rules of Evidence:

> The rule accordingly recognizes that an expert on the stand may give a dissertation or exposition of scientific or other principles relevant to the case, leaving the trier of fact to apply them to the facts...(It) seems wise to recognize that opinions are not indispensable and to encourage the use of expert testimony in non-opinion form when counsel believes the trier can itself draw the requisite inference.(Fed. R. Evid. 702 advisory committee note: see Cross, 1982).

jurors draw the requisite inference is an important practical issue in need of empirical attention.[2]

As the literature reviewed in the introduction of the thesis indicated, jurors may find it difficult to make use of aggregate or group data if the information is not directly linked to the individual. Recall that Brekke and Borgida (1988) found that when expert testimony regarding rape trauma syndrome was more explicitly tied to the alleged rape victim via way of a hypothetical example, it was more likely to be utilized by the jurors. In contrast, when the expert merely described the research findings in the area of rape, he had little impact on jurors' evaluations or verdicts. Fox and Walters (1987) found similar effects for presentational form of expert testimony regarding eyewitness unreliability. And finally, Maass et al. (1985) also found that when causal explanations were provided with the testimony, person-based information had a greater impact than sample-based information. Given that battered woman syndrome testimony is accompanied by explicit causal explanations of the psychological effects of domestic abuse, the findings from the Maass et al. study would also tend to suggest that the specific expert would have a greater impact than the general expert.

In the present experiment mock jurors were all asked to read a trial transcript involving a battered woman who had killed her husband and was claiming self-defense. Some jurors were exposed to expert testimony regarding the battered women syndrome, while others were not. Furthermore, of those jurors exposed to expert testimony, half

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2. Monahan and Walker (1986, 1987) argue that "social framework" testimony should be given in the form of a jury instruction. Central to this approach would be the determination of whether jurors are capable of applying the general information to the specific instance. They suggest that in some frameworks, some of the variables comprising the framework (e.g., perceived inability to escape with respect to battered woman syndrome) "may not be in the record, and their direct assessment may be beyond the abilities of the jury to determine whether the factors that comprise the framework are present in the case" (1987, p. 569). It is under these conditions, and these limited conditions only, that Monahan and Walker suggest the use of an expert witness to help the jury determine whether the factors comprising the framework are present.

Along these lines, Wells et al. (1980) also propose that a standard form of expert testimony could hopefully be developed in the eyewitness domain, so that it can be routinely delivered in trials that require its use.

received expert testimony that described the general research findings pertaining to battered women ("general testimony" condition), while for the remaining half the general expert testimony was also accompanied by an opinion that the woman fit the syndrome ("specific testimony" condition). To assess the interpretation jurors cast on the trial testimony, jurors' perceptions concerning various aspects of the defendant's version of what occurred (e.g., she feared for her life, she was unable to leave, etc.) were measured. Dependent measures assessing jurors' perceptions of other aspects of the trial testimony, as well as their evaluations of the various witnesses, were also collected to examine whether the expert testimony colored jurors' overall impressions of the trial. To assess verdict representations, jurors were also asked to describe what each of the alternative verdict options in the case entailed. Finally, a measure of people's beliefs regarding battered woman was also collected to determine whether the presence of the expert testimony had any impact on jurors' beliefs about battered women in general.

It was hypothesized that the presentation of the battered woman syndrome testimony would result in different interpretations of the trial evidence that, in turn, should lead to alternative verdict choices. The battering context provided by the expert should lead jurors to evaluate the defendant's psychological state and actions as a more reasonable response to the situation, and hence more consistent with a verdict of self-defense. Moreover, on the basis of findings from studies examining the effects of eyewitness identification and rape trauma syndrome testimony, it was also expected that the impact of the testimony would be stronger when the expert provided an opinion that the defendant fit the battered woman syndrome than when the expert did not. Differences in verdict category representation were expected to be minimal and systematically unrelated to verdict choice or presence of expert testimony. Finally, given that the purpose of the testimony is to inform jurors about the circumstances and experiences of battered women by providing novel information one might expect that the testimony would affect people's general beliefs on this topic.

Method

Overview of Design

Jurors were randomly assigned to receive one of three versions of a trial transcript involving a homicide case in which the defendant claimed self-defense.[3] In the control condition, no expert testimony was presented, whereas in the remaining two conditions, the basic trial information was supplemented by additional expert testimony on the battered woman syndrome. In one of the experimental conditions, general expert, the expert simply explained research findings pertaining to battered woman. In the other condition, specific expert, the expert, in addition to explaining the research findings about battered women, also testified that he had interviewed the defendant on trial and that in his opinion she suffered from the battered woman syndrome. Gender of jurors was also included as a variable, thus producing a 2 X 3 completely randomized factorial design.

Subjects

Subjects in the study were 63 male and 45 female students enrolled in an introductory psychology course at the University of Western Ontario. They received partial course credit for their participation.

Stimulus Materials

The case employed in the experiment was modelled after an actual homicide trial (Ibn-Tamas v. United States, 1979) in which the defendant, accused of murdering her husband, claimed self-defense. The stimulus material was approximately 50 pages in length and followed the format of an actual trial: the arraignment of the accused, opening remarks by the judge, opening statements by the prosecution and defense attorneys, examination and cross-examination of six or seven witnesses (depending on whether or not the expert testimony was present), closing arguments by the defense and prosecution, and final

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3. The term "accused" would be used in the Canadian legal system to refer to the individual on trial, while "defendant" would conventionally be used within the American legal system.

instructions from the judge.[4] A brief summary of the trial testimony is presented below (for a complete copy of the transcript, see Appendix A).

Basic facts. The defendant, Carolyn Thomas, was accused of murder in the second degree. She pleaded not guilty to this charge, claiming that she had acted in self-defense. The trial testimony presented conflicting accounts of what transpired between the defendant and her husband. On the day of the killing, Carolyn Thomas and her husband, a family doctor, were at home. According to the testimony of the accused, her husband started a heated argument that morning over breakfast. Despite her protests, he began to hit her over the head with his fists repeatedly. He then dragged her upstairs to their bedroom, where he continued to physically and verbally attack her, threatening her with a .38 caliber revolver, which he pointed at her head saying "you're going to get out of here this morning one way or another". Her husband then went downstairs to his office, which was located on the lower floor of their residence. At that point her little daughter came into the room and the defendant attempted to comfort and calm her down. One hour later, the defendant phoned her husband and pleaded with him to be reasonable. He told her he did not want to argue anymore and to pack her things and get out. A few minutes later, according to the defendant, he stormed upstairs to the bedroom and resumed the attack. He pushed her against the dresser on which the revolver lay. She, thinking he was going to use the gun against her, grabbed the gun and shot at the floor. At this point, he fled from the room. Holding her child by the hand she rushed downstairs to get out of the house, but her husband jumped out at them from behind the landing of the stairs. She shot again, this time hitting him in the abdomen. She was unaware of the injury because, as she claims, he backed down the stairs, "jumping so fast", with his back to the wall. According to her testimony, on his way down he said "I'm going to kill you." He then went into his office. As she and her daughter were at the bottom of the stairs, her daughter thinking they were to

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4. The trial transcript was examined by an attorney to ensure that it was representative of an actual case.

follow her father, ran into the office. The defendant looked into the room and saw her husband, who, according to her testimony, was waiting to get her. Thinking he was going to attack her, she shot the gun blindly into the room to protect herself. This third and final shot, which was to the head, was fatal. In addition to testifying about the events that transpired that morning, the defendant also provided information about her relationship with her husband in general. This included testimony about a history of battering incidents, her reasons for staying in the relationship, and her fear for her life.

The defense also called the physician who examined the defendant shortly after the shooting took place. He stated that the defendant had suffered physical injuries that morning. In summary, the defense argued that the defendant had suffered an extended period of physical and psychological abuse at the hands of her husband. As a result, she came to fear for her life and safety, and on the day in question, when her husband attacked her, she struck out at her husband in fear to protect herself.

The Crown prosecutor contested this version of the events and argued instead that the defendant had intended to kill her husband. He attacked the defendant's account on cross-examination by arguing that her failure to leave her husband indicated that she did not really fear for her life, and that she was overdramatizing the abuse. Two witnesses, the victim's secretary who was employed in the house and the victim's mother, contradicted aspects of the defendant's version of the events. Basically, the secretary testified that she was unaware of any difficulties between the defendant and her husband, and on the morning of the crime, she heard the victim plead for his life. Moreover, the secretary's estimate of when she first saw the husband and when the first shot was fired rendered the defendant's claim that her husband resumed the attack on his return to the bedroom somewhat questionable. The defendant's description of her husband's violent behavior was also contradicted by the deceased's mother who testified that her son was not a violent man. The investigating police officer and pathologist also testified for the Crown. Basically, the police officer provided information regarding the defendant's initial reaction to the killing

(i.e., the defendant did not initially state that her husband had attacked her), while the pathologist provided information pertaining to the deceased's wounds (i.e., the gunshots were fired from a distance of approximately five to ten feet).

In the judge's final instructions to the jurors three verdict alternatives were outlined: second degree murder, manslaughter, and not guilty by reason of self-defense. The necessary elements of each of the verdicts were explicitly described (see Appendix A). The judge also instructed the jurors on the basic principles of law that should be followed, such as the presumption of innocence and the meaning of reasonable doubt.

Expert testimony. In addition to the basic trial testimony, jurors in the two experimental conditions were exposed to either general or specific expert testimony on the battered woman syndrome. The information contained in the expert's testimony was modelled after the type of battered woman syndrome testimony experts provide in actual trials, if they are allowed to do so (for example, see Ibn-Tamas v. United States, 1979; State v. Kelly, 1984; Walker, 1979, 1984). In both conditions, the defense called the expert witness, a clinical psychologist, as their first witness. The expert in both conditions first established his academic credentials and then provided a detailed explanation of the social science research and findings pertaining to battered women: the cyclical nature of the husband's battering behavior and how this helps to explain why women often do not leave abusive husbands; common personality traits of battered women; the feeling of fear and anxiety that plagues these women; their inability to leave; and the common myths regarding the causes of spousal abuse.

In addition to this general information regarding battered women, the expert in the specific expert condition also stated that, on the basis of his clinical assessment of the defendant, she displayed the behavioral and emotional characteristics of a battered woman and, in his opinion, was a "classic" case of a woman suffering from the battered woman syndrome.

On cross-examination, the expert in each condition was questioned about the ability

to accurately predict a woman's reaction to physical abuse, to which the expert conceded that not everyone would respond the same. Further, in the general expert condition, the fact that the expert did not personally interview the defendant was also raised in the prosecution's cross-examination.

Dependent Measures

A variety of dependent measures were collected in the study. A brief description of these measures, in the order in which they were administered, is provided below. A copy of the questionnaire booklet can be found in Appendix B.

Verdicts rendered. The jurors were first asked to render a verdict from among the three alternatives: second degree murder, manslaughter, or not guilty on the grounds of self-defense. They were also asked to indicate how certain they were about this decision on a 9-point scale, which was anchored with the endpoints "not at all certain" and "completely certain".

Reasons for verdicts. After rendering a verdict, the jurors were asked to list in an open-ended format the pieces of evidence that most influenced their verdicts. These responses were later content analyzed by two raters, blind to experimental condition. Responses were coded into one of 19 different categories (e.g. evidence of physical abuse, ability to leave the situation, husband's pleas heard by secretary, evidence pertaining to gunshots, etc.; for a detailed account of the coding scheme employed, see Appendix C). Each item was also coded in terms of its favorability toward the defendant's claim of self-defense (favorable, unfavorable, or neutral). The two coders achieved high levels of agreement, which ranged from 77% to 90% agreement for different parts of the coding scheme.

Evidence evaluation/interpretation. Sixteen items were constructed to assess the likelihood of alternative interpretations that jurors' might apply to the trial testimony. The majority of these items addressed the defendant's behavior and beliefs: her perceptions of fear and danger that morning, her ability to leave the situation both that morning and prior to

the incident, the extent to which she intended to inflict an injury that she knew was likely to result in death, the severity and regularity of the abuse, the perceived reasonableness of the force she used, and her degree of control over her actions that morning (for a complete listing of these items see Table 2.3).

Two of the items measured critical issues raised in the secretary's testimony, that is, the accuracy of her estimate of the time that had elapsed during the incident, and her ability to hear what occurred between the defendant and her husband that morning. Finally, since much of the conflicting testimony regarding the defendant's behavior and mental intent centered primarily around the testimony of the defendant, the secretary, and the mother of the deceased, ratings of the extent to which each of these three witnesses were telling the truth were also collected. Responses to all sixteen items on the questionnaire were collected on nine-point scales.

Evaluation of trial participants. Jurors rated the "believability" of each of the six or seven witnesses (depending on condition), on 9-point scales, which were anchored with the endpoints "not at all believable" and "completely believable". Evaluations of the attorneys were assessed by jurors' ratings of each attorney on three scales (specifically, evaluations of competence, effectiveness, convincing), which were subsequently summed to form single measures of attorney persuasiveness (Cronbach α's = .81 & .74, for Crown & Defense lawyer, respectively).

Verdict option understanding. Next, jurors were asked to state "in their own words" what each of the three verdict alternatives that the judge outlined in the final charge entailed. They were asked specifically to describe the legal elements that must be present to reach each of the verdict alternatives. They were also asked to indicate how the facts of the case applied to each of the elements.

A coding scheme based on the legal elements that the judge outlined for each of the alternative verdicts was developed and applied to the jurors' open-ended responses. In total, up to three elements could be coded for each verdict category (see Appendix C for

more detail on the coding scheme). In addition, errors (incorrectly stating an element for a category) were also coded. One rater, blind to experimental condition, coded all responses on this measure, while a second rater, also blind to condition, coded half of the data. High rates of inter-rater agreement were found (96.2%, 90.7%, & 92.6% for the superordinate categories of second degree murder, manslaughter, and not guilty due to self-defense, respectively).

Beliefs regarding battered women. The literature on battered women outlines a number of alleged myths that people may hold about battered women who remain in abusive relationships (e.g., Browne, 1987; Douglas, 1987; Gelles & Straus, 1988; Mills, 1984; Walker, Thyfault, & Browne, 1982). Based upon this literature, 12 items were constructed to assess jurors' beliefs about battered women and battering relationships (for a complete listing see Appendix B): battered women tend to have low self-esteem (Item 1); if a woman was suffering, she would simply leave the batterer (Items 2, 5, & 11); battered women derive pleasure from the beatings (Item 8); they are at least partially deserve the beatings (Items 3, 6, & 9); violent relationships are confined to couples of low socio-economic status (Items 4 & 7); violence and love are incompatible (Item 10); a woman waives her rights by staying with the batterer (Item 12). Responses to these items were obtained on seven-point rating scales, anchored with the endpoints "strongly disagree" and "strongly agree". With the exception of the first dimension listed above, responses of disagreement would more closely approximate the conclusions drawn from the research findings on battered women.

Finally, as was discussed in the introduction of the thesis, some members of the judiciary, as well as some legal commentators, have raised concerns that jurors may question the battered woman's failure to seek outside assistance. Two items were constructed to measure jurors' beliefs about the extent to which battered women turn to others for help (i.e., the police, family or friends). Responses to these two items were obtained on five-point rating scales, anchored with the endpoints "almost all" and "almost none" (intermediate points on these scales were "about 3/4", "about half", and "about 1/4").

Responses at the lower end of the scale would be more consistent with the direction of the general research findings (e.g, Dutton (1987) on the basis of a weighed average of studies reports that approximately 15% report battering incidents to the police; see also Straus, 1989).

These 14 items were then summed to form a composite measure of jurors' beliefs regarding battered women. Prior to summing the items, however, all items were rescaled using z-transformations, since the last two items used five-point scales and the remaining items employed seven-point scales. Subsequent reliability analyses suggested dropping item 10, which had a low item-total correlation, thus leaving a 13-item questionnaire (Cronbach α = .69). A low score the scale was suggestive of beliefs that accord less with the research findings in the area, while a high score on the scale was suggestive of greater accordance with the research findings.

Evaluations of battered woman syndrome testimony. Finally, the jurors were asked if they had heard of the "battered woman syndrome", and, if so, where they had heard about it. For those jurors who were exposed to the expert testimony, as well as jurors in the no expert condition who answered yes to the above question, two additional questions were asked: (1) to what extent did the "battered woman syndrome" apply to the defendant in this case and, (2) to what extent was there support for the notion of the "battered woman syndrome".

Procedure

Subjects in the study were tested individually. They participated in groups ranging in size from 2 to 10 persons, depending upon subject availability. After arrival to the experiment, they were told that they would be taking part in a juror decision making study and were asked to assume the role of a juror for the duration of the experiment. The subjects were told that they would read a condensed version of a criminal trial transcript; then they would be asked to render a verdict and answer questions about different aspects of the case. Each subject then received a copy of one of the three possible trial transcripts,

with assignment randomly determined. At their own pace, subjects read the trial transcript, which took approximately 50 to 80 minutes and then completed the dependent measures. The jurors were allowed to keep the copy of the judges' final instructions until they had reached a verdict, though the remainder of the transcript was removed prior to their starting the questionnaire. After completing all measures, the jurors were debriefed and thanked for their participation in the study (see Appendix B for a copy of the debriefing form).

Results

Verdicts Rendered

The verdicts rendered by the jurors were analyzed using a linear modelling method for categorical data comprising multi-way contingency tables (SAS Institute Inc., 1985; see Grizzle, Starmer, & Kock, 1969). The method is an extension of the typical ANOVA approach for continuous data, and thus tests for main effects and their interactions. This analysis revealed significant main effects for both gender, χ^2 (2) = 6.16, $p < .05$, and condition, χ^2 (4) = 11.28, $p < .05$, but no significant interaction. Figure 2.1, displays the percentage of each of the three verdicts rendered for males and females separately. It indicates that males predominantly chose verdicts of manslaughter, followed by an equal percentage of second degree murder and not guilty verdicts. Females, on the other hand, were far more likely to render verdicts of not guilty due to self-defense, followed by verdicts of manslaughter. A small percentage of the female jurors found the defendant guilty of second degree murder. Inspection of the contributions to the χ^2 statistic for the gender effect suggested that perhaps the major reason for the rejection of the null hypothesis was that females selected self-defense more frequently than chance alone would predict. Post-hoc tests using Goodman's contrast procedure (Marascuilo & McSweeney, 1977) also suggested that males and females differed in the extent to which they were likely to render self-defense as opposed to second degree murder verdicts ($p = .10$), and self-defense as opposed to manslaughter verdicts ($p = .10$).

Figure 2.2 presents the verdicts chosen for each of the three conditions. The pattern

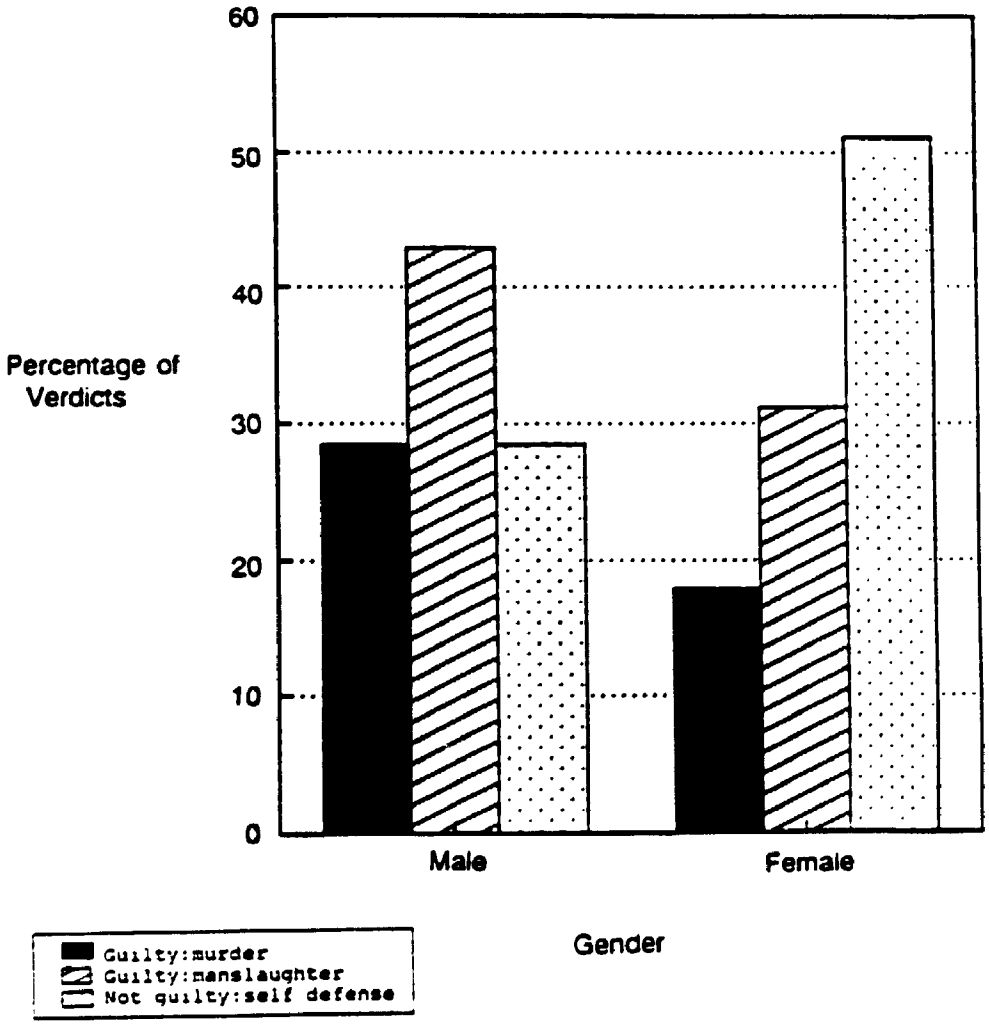

Figure 2.1. Verdicts rendered by gender (percentage).

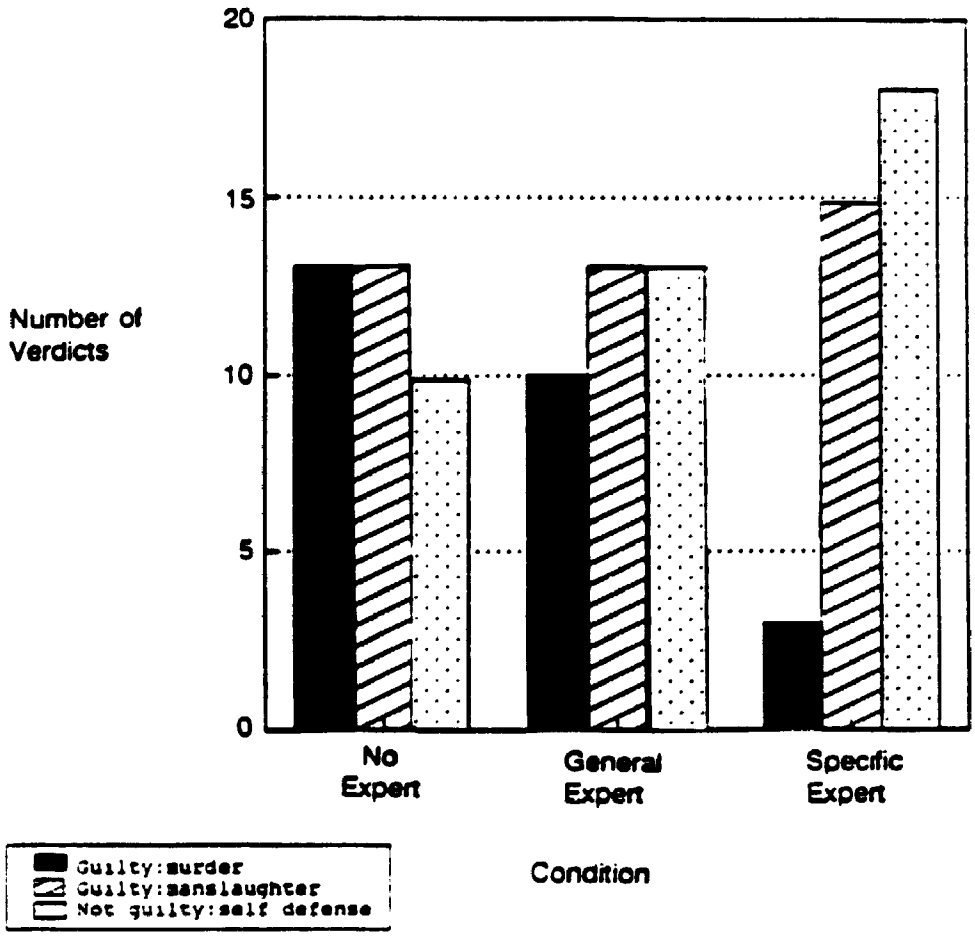

Figure 2.2. Verdicts rendered by condition.

of results appear to be quite similar in the no expert control condition and the general expert condition. In both cases, verdicts were evenly distributed across the three verdict alternatives. In contrast, verdicts rendered by jurors exposed to the specific expert condition were predominantly manslaughter or not guilty, with very few murder verdicts. Post-hoc tests using Goodman's contrast procedure indicated that the no expert and the specific expert condition differed in the extent to which second degree and self-defense verdicts were rendered ($p = .10$).

It thus appears that the specific expert condition did have an effect on jurors' verdict decisions and it was in the expected direction. On the other hand, exposure to the expert in the general condition did not produce this effect, suggesting that the additional information provided by the expert in the specific condition (i.e., that the defendant exhibited the battered woman syndrome) was an important determinant of the testimony's impact.

Jurors' ratings of their confidence in the verdict they rendered were subjected to a two-way gender by condition ANOVA. No significant effects were obtained. It seemed possible, however, that the impact of the expert testimony on perceptions of certainty might have involved an interaction with verdict choice. For example, as compared to jurors not exposed to the expert testimony, jurors exposed to the testimony who rendered guilty verdicts may have been less certain of their decision, whereas jurors who rendered not guilty verdicts may have been more certain of their decision. Thus, to test this hypothesis, a 3 (verdict) by 2 (condition) ANOVA was conducted. The analysis, however, revealed no significant interaction, only a significant main effect for verdict choice, F (2,99) = 3.44, p <.05.[5] Thus, perceptions of certainty within the three conditions did not vary by verdict choice.

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5. Jurors rendering verdicts of murder reported greater confidence (M = 7.53) than jurors rendering verdicts of not guilty (M = 6.80), and ratings associated with verdicts of manslaughter (M = 7.39) fell between these two means. However, Tukey-Kramer's modification of the Honestly Significant Difference test for unequal cell frequencies, indicated that these difference were not significant.

Reasons for Verdicts

Immediately after rendering a verdict, jurors were asked to list the reasons for their decision. As indicated in the method section, these open- ended responses were coded into one of 19 different content categories (see Appendix C). An initial gender by condition ANOVA conducted on the total number of reasons listed by jurors revealed no significant effects.[6]

Recall that within each category, each reason was also coded in terms of its favorability towards the defendant's claim of self-defense, either favorable, unfavorable, or neutral (unclear or ambiguous). Thus, to determine if the presence of expert testimony influenced the content and favorability of the reasons that jurors listed, general measures that reflected the focus of the reason (either defendant or other) and the degree of favorability of the reason (favorable, unfavorable, neutral) were derived. Three composite measures of reasons that focused specifically on the defendant were calculated by summing, separate for favorable, unfavorable, and neutral, the total number of reasons that pertained specifically to the defendant's behavior and mental state (e.g., references to her ability to leave, references to the defendant's perceptions of fear or danger, references to the defendant's history of abuse; see, Appendix C, categories 1 to 10). Three additional measures that focused on other aspects of the testimony were derived by summing, separate for favorable, unfavorable, and neutral, the total number of reasons that pertained specifically to other aspects of the testimony (references to the conflicting time estimate given by the secretary, references to the deceased's mother's testimony, references to the gunshots, see Appendix C, categories 12 to 19). This yielded six composite categories: favorable defendant focus, unfavorable defendant focus, neutral defendant focus, favorable other focus, unfavorable other focus, neutral other focus. Proportion scores were then

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6. In the no expert control condition, testimony pertaining to the battered woman syndrome was not provided and could, therefore, not be cited as a reason for verdict choice. Thus, this category (Category 11, see Appendix C) was eliminated from these analyses.

derived for each of these measures by dividing the number of reasons listed in that category by the total number of reasons listed by the subject.

To assess for differences in the type (defendant vs. other focus) and favorability (favorable, unfavorable, neutral) of the reasons listed, a 3 (condition) by 2 (gender) by 2 (type) by 3 (favorability) ANOVA with repeated measures on the latter two factors was conducted.[7] This revealed a main effect for type, $F(1,102) = 29.72$, $p < .01$, with a greater proportion of defendant focus reasons ($M = .2116$) cited than other focus reasons ($M = .1222$). This main effect, however, was qualified by a type by favorability interaction, $F(4,204) = 10.31$, $p < .01$. Examination of the means comprising the interaction, using the Newman-Kuels procedure, indicated that reasons specific to the defendant were less likely to be neutral in nature ($M = .1253$) than either favorable ($M = .2522$) or unfavorable ($M = .2559$). In contrast, reasons pertaining to other aspects of the testimony did not vary by favorability (M's = .1139, .1095, & .1432, for favorable, unfavorable, & neutral, respectively).

Significant effects for condition were also found. This involved a two-way interaction between favorability and condition, $F(4,204) = 3.14$, $p < .02$, which, in turn, was qualified by a favorability by type by condition interaction, $F(4,204) = 3.16$, $p < .02$. Simple tests of means exploring the two-way interaction indicated that jurors in the specific expert condition cited significantly less reasons that were unfavorable to the defendant's case ($M = .101$) as compared to the other two conditions (M's = .235 & .212, for no & general expert conditions, respectively). Further, simple simple tests of means comprising the three-way interaction revealed the impact of the expert testimony in still greater detail. These means are presented in Table 2.1. As the values in the table indicate, a greater proportion of unfavorable reasons that were specific to the defendant were listed in the no expert condition as compared to the specific expert condition. The mean for the general expert fell

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7. Favorability and type are within-subjects variables and thus the significance of the F values involving the repeated factors were adjusted using the Geiser-Greenhouse adjustment. This adjustment was conducted for all subsequent analyses involving a repeated factor.

Table 2.1

Mean porportion of total reasons listed for each category by condition.

Category	Condition: No Expert	Condition: General Expert	Condition: Specific Expert
"Defendant" focus:			
Favourable	.1993	.2514	.3060
Unfavourable	.3704b	.2490ab	.1482a
Neutral	.0928a	.0827a	.2005b
"Other" focus:			
Favourable	.1036	.0921	.1461
Unfavourable	.0997ab	.1753b	.0532a
Neutral	.1343	.1494	.1461

Note. Means in the same row with different subscripts differ from one another at the .05 level of significance using Newman-Kuels tests of means.

midway between. Jurors exposed to the specific expert, as compared to the other two groups, also reported a greater proportion of neutral reasons that pertained specifically to the defendant. And finally, jurors in the specific expert condition also indicated a smaller proportion of unfavorable reasons pertaining to other trial testimony than did jurors in the general expert condition, with the no expert condition falling midway between.

Evidence Evaluation/Interpretation

Next, jurors evaluated the likelihood of 16 different interpretations that could be derived from the trial testimony. Recall that it was hypothesized that the presence of the expert testimony would lead jurors to interpret the evidence in a manner that was more consistent with the defendant's version of what occurred, and further, that this effect would be stronger for the specific expert testimony condition than for the general expert testimony condition.[8] To test this hypothesis, Dunnett comparisons contrasting each of the expert testimony conditions with the no expert control condition were conducted on each of the items. Table 2.2 summarizes these results. Examination of these means allow us to explore precisely where and how the two forms of the expert testimony influenced the decision process.

Where the expert testimony, and usually only the specific expert testimony, had its greatest impact was on perceptions of the defendant's ability to leave and escape the situation (Items 5 & 6), the extent to which the defendant feared for her life and was in danger (Items 2-4), the extent to which the defendant's actions were under her control (Item 11), and the extent to which the defendant intended to kill her husband (Item 1). Since these elements pertain specifically to the defendant's version of what happened, it is not surprising

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8. Some evidence, albeit weak, for an overall effect of expert testimony (i.e., contrasts involving the two expert conditions vs. the no expert testimony condition) was found. Significant differences, in the expected direction, were found on 3 of the dependent measures: the defendant was trapped in the relationship, the defendant could leave the house instead of shooting, and the defendant's life was in danger. Effects on three additional measures were marginal ($p < .10$): defendant intended to inflict an injury that was likely to result in death, defendant's actions were under her control, and the accuracy of the secretary's time estimate.

Table 2.2

Dunnett comparisons of expert testimony conditions with the no expert control group on items comprising evidence evaluation/interpretation questionnaire.

	Condition		
	No Expert	General Expert	Specific Expert
1 ...defendant intended to inflict an injury that was likely to result in death?	5.64	5.52	4.03*
2 ...defendant feared for her life on the morning of the crime?	5.94	6.17	7.14*
3 ...defendant's life was in danger on the morning of the crime?	4.64	4.86	6.06*
4 ...defendant thought her life was in danger on the morning of the crime?	6.06	6.11	7.14*
5 ...defendant could leave the house instead of shooting her husband?	6.83	5.50*	5.19*
6 ...defendant was trapped in her relationship, unable to leave?	5.08	6.53*	6.75*
7 ...defendant was physically abused by her husband on regular basis?	6.39	6.33	7.28
8 ...on victim's return to the bedroom, he began to attack his wife?	5.58	5.64	6.11
9 ...severity of beating (if at all) by husband on the morning of the crime?	5.80	6.00	6.42
10 ...defendant believed force used against her husband was necessary to prevent injury?	5.45	5.44	6.44*
11 ...defendant's actions were under her control on the morning of the crime?	4.74	4.74	3.75*
12 ...defendant was telling the truth on the witness stand?	5.67	5.42	6.61*
13 ...accuracy of secretary's time estimate of when shooting occurred?	5.50	4.97	4.44
14 ...secretary could heard what occurred between defendant and husband?	4.92	5.28	3.69*
15 ...secretary was telling the truth on the witness stand?	6.28	6.06	5.31
16. ...mother of deceased was telling the truth on the witness stand?	5.25	5.31	5.25

* Differs from no-expert control ($p = .05$, one tailed) using Dunnett's test which controls the Type I error rate experimentwise per set.

Note. Wording of items is abbreviated and slightly modified. Higher scores indicate greater agreement with the statement.

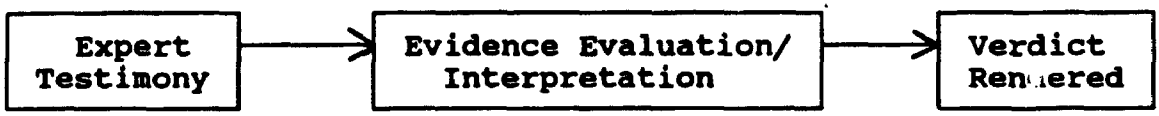
that jurors exposed to the specific expert testimony were also more likely to believe that the defendant was telling the truth on the witness stand (Item 12). Jurors in the specific expert condition were also less likely to believe that the secretary could hear what took place between the defendant and her husband (Item 14). Although means are in the direction of expert testimony increasing perceptions of abuse, neither of the expert conditions significantly altered jurors' perceptions of actual physical abuse, as compared to the no expert control group (Items 7-9).

In summary, the impact of the expert testimony on jurors' interpretations, which was limited primarily to the specific expert condition, did not alter perceptions of physical abuse; rather, it altered the implications that were drawn from it. Moreover, with the exception of perceptions of the defendant's ability to leave the domestic relationship, the general expert condition did not differ from the no expert condition. Thus, it appears that jurors were extremely reluctant to apply the information or framework provided by the expert to their evaluations of the defendant's actions and mental state without the opinion that the defendant fit the category of the battered woman syndrome.

The effect of the expert testimony on jurors' decisions, as outlined in the introduction of the thesis, was hypothesized to be largely a function of its "mediational" influence on jurors' interpretations and evaluations of the trial testimony -- specifically, interpretations of the testimony that related to the defendant and her version of what occurred. The results of the analyses reported above suggested that the specific expert in comparison to the no expert control was related to this stage of the decision process, but it provided only a limited test of the mediational hypothesis (see Fiske, Kenny, & Taylor, 1982). A more direct test of the mediational hypothesis was thus applied to the data in order to sort out the direct and indirect effects of the specific expert testimony. The results of the Dunnett comparisons, as well as the earlier analysis on juror verdicts, indicated that only the specific expert testimony condition differed from the no expert control condition. Thus, the mediational test of the impact of the expert testimony was only performed on the specific expert testimony condition

versus the no expert testimony control condition.

A path analysis was performed to assess the adequacy of the mediational model that was described in the introduction of the thesis and is presented once more below:



Before conducting the regression analyses, however, a principal components factor analysis with varimax rotation was performed on the 16 items comprising the evidence evaluation/interpretation questionnaire to determine whether they could be reduced to a smaller set of factors reflecting evidence evaluation. Two factors, which accounted for approximately 59 percent of the total variance in ratings, emerged. The factors identified by this procedure were then employed to construct indices defined by factor loadings of the items, forming what Kim and Mueller (1978) refer to as "factor based scales".[9]

The first index was comprised of the 12 items (items 1 to 12, Table 2.3) tapping the defendant's behavior and mental state and was labelled "believability of defendant's account" (scores could range from 12 to 108, Cronbach α = .94). The second index, labelled "believability of conflicting account", was comprised of the remaining four items (items 13 to 16, Table 2.3; scores range from 4 to 36, Cronbach α = .79). It was hypothesized that the expert testimony would operate primarily through its influence on jurors' interpretations of the testimony that related to the defendant's version of what occurred and thus, only the believability of the defendant's account index was employed in the mediational analyses. Subsequent analyses conducted on the two composite measures also suggested using only

9. Index scores for the two factors were constructed by summing those items with factor loadings exceeding .50. This criterion was chosen because it permitted clear identification and labelling of the factors, and also ensured that there was no item overlap across the two factors.

the believability of the defendant's account index.[10]

The three regression equations required to establish mediation are as follows: (1) in the first equation, the independent variable (expert testimony) must affect the mediator (evaluations); (2) in the second equation, the expert testimony must affect the dependent variable (verdict rendered); and (3) in the third equation, the effect of the expert testimony on the dependent variable must be significantly reduced when the mediator is also included in the equation (Baron & Kenny, 1986). Given these three conditions, the effect of the independent variable on the dependent variable must then be less in the third equation than in the second equation. If the independent variable has no effect when the mediator is controlled, perfect mediation is established. Using this procedure, the hypothesis that there would be a weak, if any, relationship between specific expert testimony and verdicts rendered when controlling for the evaluation and interpretation of the believability of defendant's account index was tested.

The no expert control condition was coded -1 and the specific expert testimony condition was coded 1.[11] The intervening or mediating variable was jurors' ratings on the believability of the defendants' account index (i.e., how the subject evaluated the plausibility

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10. Initial gender by condition ANOVA's conducted on these two index scores revealed the following: (1) a main effect for gender on the believability of the conflicting testimony index, $F(1,101) = 4.80$, $p < .05$, such that males gave more favorable ratings to the believability of the conflicting testimony ($M = 22.02$) than did females ($M = 18.98$); and (2) a borderline significant main effect for condition on the believability of the defendant's account index, $F(2,101) = 3.01$, $p < .06$. Tests of means revealed that subjects exposed to the specific expert condition gave more favorable ratings on the believability of the defendant's account index ($M = 76.66$) than did subjects in the no expert condition ($M = 64.54$). Ratings in the general expert condition fell midway between these means such that they were not significantly different from either ($M = 66.72$). No condition effects were found on jurors' ratings on the believability of the conflicting account index and this variable was, therefore, not included as an intervening variable.

11. Although regressions analyses conducted in which all three conditions were included, with the no expert coded as -1, the general expert coded as 0, and the specific expert coded as 1, produced similar results (albeit weaker) to those reported in the text for the no expert and the specific expert testimony condition, it did not seem justifiable to treat the condition variable as a continuous variable possessing interval properties. A separate regression analysis in which the no expert condition was contrasted with the general expert produced no significant effects.

of the defendant's self-defense claim). Finally, the dependent variable, was treated as a three leveled variable and was coded 1 (second degree murder), 2 (manslaughter), and 3 (not guilty).[12]

Table 2.3 presents the standardized coefficients for a regression model that first excludes and then includes the variable assessing believability of the defendant's account index. The addition of this variable entirely eliminated the relationship between expert testimony and verdicts rendered and provided a significant increase in the overall explanatory power of the equation (from 9% to 62%). In fact, the results indicated that perfect mediation held. As the model depicted in Figure 2.3 indicates, the data are consistent with the hypothesis that the expert testimony, at least when it also provides an opinion that the defendant fits the battered woman syndrome, operates via its influence on jurors' interpretations of the trial testimony. Given the correlational nature of the data, however, there are other possible interpretations. An obvious competing model is one that merely switches the sequential positions of the mediator and the dependent variable. That is, it may be that jurors' verdict choices lead them to make differential interpretations of the trial evidence rather than the reverse. To test this hypothesis a LISREL procedure was performed to compare the explanatory power of these two competing models. These analyses revealed that the original model (Figure 2.3) fit the data, χ^2 (2) = 2.43, $p > .25$, whereas a model that specified verdict choice as the mediator did not, χ^2 (2) = 62.85, $p < .001$).

Ratings on the evidence/evaluation items were also investigated for gender differences. Gender by condition ANOVA's conducted on these items revealed main effects for gender on three of the items (p's < .05). Marginal main effects for gender, however, were found on five additional items (p's < .10). Examination of the means displayed in

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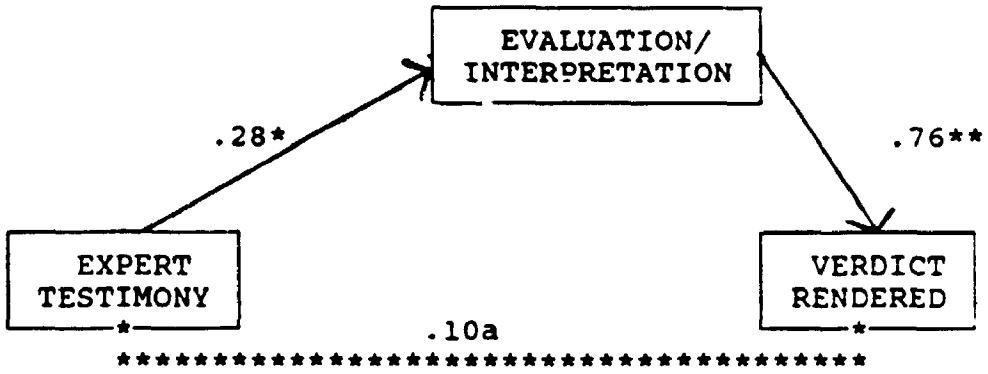
12. Additional analyses conducted in which verdicts of second degree murder (supports crown's position) were coded as -1 and verdicts of manslaughter and self-defense (alternative or lesser verdicts) were coded as 1, resulted in similar significant findings.

Table 2.3

Predictors of verdicts rendered as function of expert testimony: No expert control vs. specific expert.

Predictor	Regression coefficients	
	Without E/I Variable	With E/I Variable
Expert testimony	.31*	.10
E/I of Testimony	-----	.76*
	R^2 =.09	R^2 =.62

Note. E/I=Evaluation/interpretation ("believability of defendant's account" index)
*p <.01



a $p > .05$, ns.
* $p < .02$
** $p < .001$

Figure 2.3. Path model indicating relationship between expert testimony manipulation (no expert and specific expert conditions only), evaluation of testimony, and verdict rendered.

Table 2.4 shows that there was a tendency for female jurors to be more accepting than males of the defendant's version of the events surrounding the shooting (i.e., she feared for her life, she believed the force she used was necessary, her life was in danger, etc). Moreover, in contrast to females, males rated the defendant as less likely to be telling the truth in the witness box and the secretary as more likely to be telling the truth. No significant gender by condition interactions were found.

Evaluations of Battered Woman Syndrome Testimony[13]

Three of the dependent measures pertained specifically to the expert testimony: ratings of the believability of the expert witness, the extent to which the battered woman syndrome applied to the defendant, and the degree of existing support for the notion of the battered woman syndrome. Since examination of jurors' responses to these items might shed some light on the differential impact of the two forms of the expert testimony, gender by condition ANOVAs were conducted on each of them (the no expert control condition, of course, was excluded from these analyses). No significant effects were found for jurors' ratings of the degree of support for the battered woman syndrome or the believability of the expert witness A significant main effect for condition, however, was uncovered for jurors' ratings of the testimony's applicability to the defendant, $F(1,67) = 5.44$, $p < .05$. Specifically, jurors exposed to the specific expert reported that the battered woman syndrome applied more to the defendant ($M = 7.25$) than did jurors exposed to the general expert ($M = 6.03$).

To explore further for any potential differences in the treatment of the expert testimony, jurors' open-ended responses for their verdict choice were reexamined for explicit mention of the battered woman syndrome testimony (category 10, Appendix C). In the general expert condition 25% of the jurors (28% & 20%, men & women, respectively)

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13. Thirty-two percent of the sample indicated that they had heard of the battered woman syndrome before reading about the case. Chi-square analyses indicated that knowledge did not differ as a function of gender or condition, thus indicating that prior knowledge was evenly distributed across conditions. There was also no relationship between prior knowledge and verdicts.

Table 2.4

Mean ratings on items comprising evidence evaluation /interpretation questionnaire by gender.

	Gender	
	Females	Males
1* ...defendant feared for her life on the morning of the crime?	6.93	6.04
2* ...defendant's life was in danger on the morning of the crime?	5.64	4.86
3* ...defendant could leave the house instead of shooting her husband?	5.38	6.28
4* ...defendant was trapped in her relationship, unable to leave?	6.64	5.74
5***...defendant believed force used against her husband was necessary to prevent injury?	6.62	5.18
6* ...defendant's actions were under her control on the morning of the crime?	3.93	4.76
7** ...defendant was telling the truth on the witness stand?	6.51	5.46
8*** ...secretary was telling the truth on the witness stand?	5.04	6.48

* Means differ from each other at the .10 level.
** Means differ from each other at the .05 level.
*** Means differ from each other at the .01 level.
Note. Wording of items is abbreviated and slightly modified. Higher scores indicate greater agreement with the statement.

mentioned the testimony of the expert among their list of reasons. A greater proportion of jurors (57% & 53%, men & women, respectively) cited the expert's testimony in the specific expert testimony condition. In both conditions when the expert testimony was cited it was typically presented in either a favorable (e.g., the psychological events the doctor explained correspond to the defendant) or neutral (e.g., psychologist's analysis) manner.[14]

Evaluation of Trial Participants

Jurors' were also asked to indicate the believability of each of the six trial witnesses and these ratings were examined via gender by condition ANOVAs. Main effects for gender were found on ratings of three of the trial witnesses, F's = 5.63, 5.28, 4.81, $p < .05$, for the police officer, the victim's secretary, and the defendant, respectively. Examination of the means indicated that males perceived two of the Crown's witnesses, the police officer (M = 8.84) and the secretary (M = 6.10) as more believable than did females (M 's= 8.37 & 5.16 for officer and secretary, respectively). In contrast, males found the defendant less believable (M = 5.60) than did females (M = 6.49). The main effect for condition on ratings of the believability of the defendant only approached statistical significance, $F(2,102) = 2.54$, $p < .09$. Ratings in the specific expert testimony condition indicated that the defendant was perceived as more believable by jurors in this condition (M 's= 6.61) than in the other two conditions (M = 5.83 & 5.47, for no and general expert conditions, respectively).

Finally, jurors' evaluations of the attorneys on the persuasiveness index indicated a significant condition main effect on ratings of the crown attorney, $F(2,102) = 4.50$, $p < .05$, and a borderline condition effect on ratings of the defense attorney, $F(2,102) = 2.95$, $p < .06$. Subsequent tests of means revealed that jurors in the specific expert condition rated the

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14. In each condition two jurors made negative statements about the expert testimony. The negative statements made about the testimony in the general expert condition were opposite in nature - one juror felt that the defendant was playing up to the psychologist's description of the battered woman syndrome, whereas another juror indicated that the link between the psychologist's testimony and the defendant was too weak. In the specific expert condition one juror indicated that the theory was not stable enough and another juror felt that the defendant's behavior was too stereotypical of battered women.

prosecuting attorney as less persuasive (M = 14.11) than did jurors in the other two conditions (M's= 16.25 and 16.0 for no expert and general expert conditions, respectively). Consistent with this rating, jurors in the specific condition viewed the defense attorney as more persuasive (M = 16.89) than did jurors in the general expert condition (M = 15.25). Jurors' ratings in the no expert condition fell between these values (M = 16.0).

Jurors' Beliefs Regarding Battered Women

The jurors' composite scores on the questionnaire assessing beliefs regarding battered women were examined to determine whether the introduction of the expert testimony had an impact on jurors' general beliefs about battered women. A gender by condition ANOVA performed on these scores revealed only a significant main effect for gender, with males (M = -1.88) indicating less concordance with the research findings on battered women than females (M = 2.64). To examine these effects in greater detail, Table 2.5 displays the jurors' responses, both overall and, separately, for males and females, on each of the items comprising the composite measure.

The main effect for condition that one might expect was not found. It is possible that the questionnaire was not sensitive enough to detect reliable differences or, alternatively, that the testimony did not influence general beliefs about battered women, only beliefs about the defendant on trial. Since no condition effects were evidenced, jurors' composite scores on the questionnaire were treated as an individual difference measure of beliefs about battered women and the relation between these scores and verdicts rendered was explored. The correlation was statistically significant, $r = .44$, $p < .001$, suggesting that the more an individual agreed with the thrust of the general research findings about battered women, the more lenient a verdict he/she was likely to render To determine whether the effect of beliefs were mediated through evaluations and interpretations of the believability of the defendant's account a mediational model similar to that which was applied to the specific expert testimony versus the no expert control condition was conducted. All data, however, were included in these analyses, since the condition variable was not under consideration. Table

Table 2.5

Mean responses on items comprising beliefs about battered women questionnaire by gender.

	OVERALL MEAN	MALE (N=63)	FEMALE (N=45)
1. Women who are subjected to psychological and physical abuse tend to have low self-esteem.*	2.21	2.02	2.49
2. Because battered women live in fear, they cannot think clearly about leaving the violent situation.**	1.44	1.05	1.98
3. The type of man who beats his wife will do so regardless of what his wife does or does not do.**	1.57	1.21	2.09
4. Wife abuse is more pervasive in families that are poor.	-.31	-.09	-.60
5. A woman will move out of the house if her husband beats her severely.**	-.62	-.21	-1.28
6. A husband is sometimes justified in hitting his wife.	-2.69	-2.73	-2.64
7. In general, men who beat their wives tend to have lower levels of education.	-1.11	-.94	-1.36
8. Some women seem to get pleasure from being beaten up by their husband.	-2.00	-1.94	-2.09
9. If a man hits his wife, she probably did something to deserve it.**	-2.39	-2.11	-2.78
10. Any sensible woman would end a relationship where she was subjected to physical violence.	.93	1.03	.78
11. A woman that refuses to leave a husband who beats her gets what she deserves.	-2.19	-2.00	-2.44
12. What percentage of battered women do you think will report to the police that they have been subjected to physical abuse at the hands of their husband?	1.60	1.68	1.49
13. What percentage of battered women do you think turn to family and/or friends for help?	2.22	2.35	2.04

*$p<.05$; **$p<.01$ indicates significant differences between men and women.

Note: For items 1 to 11 mean responses less than 0 indicate disagreement with the statement, while means greater than 0 indicate agreement with the statement (agreement with items 1 to 3 is consistent with the research findings, while for items 4 to 11 it is inconsistent with the findings). And, responses to items 12 and 13 were obtained on five point scales with the lower end of the scale more consistent with the research findings.

2.6 and Figure 2.4 reveal the results of the regression analyses. Once again, we find that the inclusion of the believability of the defendant's account index eliminated the influence of the beliefs variable, thus suggesting that its impact on verdicts was mediated through its effect on evaluations and interpretations. Moreover, this sequential pattern of the variables fit the data, χ^2 (2) = 1.37, p >.53, whereas a pattern that specified beliefs influencing interpretations and evaluations via verdict choice did not, χ^2 (2) = 85.58, p <.001.

Verdict Category Understanding

To assess jurors' understanding of the three verdict alternatives, they were asked to describe what each of the verdicts entailed.[15] These open-ended responses were subsequently content analyzed for accuracy (see Appendix C). Composite measures of jurors' comprehension for the verdict categories were then derived by summing the total number of elements cited by the jurors for each verdict category, separately for correct and incorrect citations. Tables 2.7 and 2.8 present the mean numbers of correct (maximum of three) and incorrect elements listed by jurors for each verdict category, disaggregated by verdict choice. Since the means presented in Table 2.7 are considerably less than three, it indicates, as Pennington and Hastie (1986) also found, that verdict representations of simulating jurors, at least as measured by open-ended responses, tend to be somewhat incomplete.

Recall that Pennington and Hastie (1986) found that the variation in jurors' representations of the verdict options was not related to the decisions they rendered, thus indicating that verdict choice was not due to different representations of the verdict categories. It was, thus, hypothesized that verdict understanding would not be related to jurors' decisions. To test this hypothesis, analyses similar to those performed by Pennington and Hastie (1986) were conducted. ANOVAs, in which verdict choice was treated as a between subjects variable and verdict category was treated as a within subjects variable,

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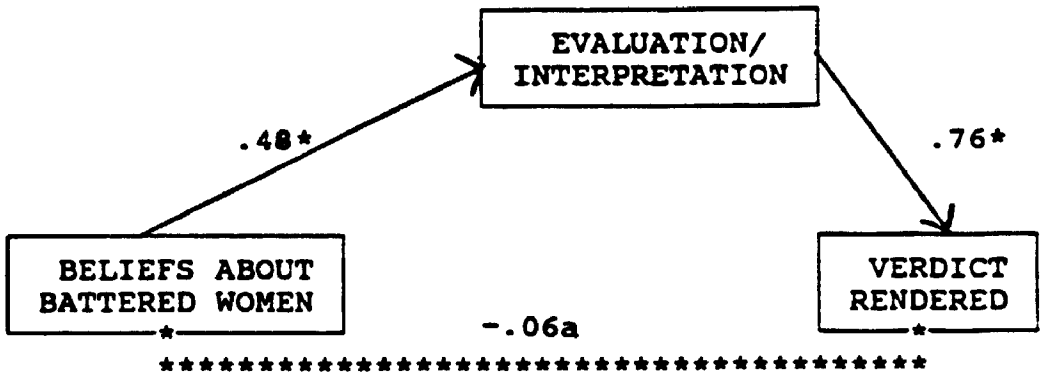
15. Jurors were also asked to describe how the elements of each verdict option applied to the facts of the case, but too few jurors actually did this to permit meaningful analyses.

Table 2.6

Predictors of verdicts rendered as function of beliefs about battered women.

Predictor	Regression coefficients: Without E/I Variable	Regression coefficients: With E/I Variable
Beliefs about battered women	.43*	.06
E/I of Testimony	-----	.76*
	R^2 = .16	R^2 = .62

Note. E/I=Evaluation/interpretation ("believability of defendant's account" index)
*p <.001



a $p > .05$
* $p < .001$

Figure 2.4. Path model indicating relationship between beliefs about battered women, evaluation of testimony, and verdict rendered.

Table 2.7

Mean correct verdict-element citation for each category by subject verdict choice

Verdict Choice	Verdict Category: Second-degree	Man-slaughter	Self-defense	All verdicts
Second-degree (n=25)	1.08	1.08	1.76	1.31
Manslaughter (n=37)	.81	1.24	1.59	1.21
Self-defense (n=38)	1.00	1.21	1.75	1.32
All subjects (n=100)	.95	1.19	1.69	1.28

Note. The total N does not equal 108 because not all subjects completed the questionnaire. Maximum score for each category was 3.

Table 2.8

Mean Incorrect verdict-element citation for each category by subject verdict choice

	Verdict Category			
Verdict Choice	Second-degree	Man-slaughter	Self-defense	All verdicts
Second-degree (n=25)	.32	.04	.00	.12
Manslaughter (n=37)	.40	.19	.05	.21
Self-defense (n=38)	.32	.07	.00	.13
All subjects (n=100)	.35	.11	.02	.16

Note. The total N does not equal 108 because not all subjects completed the questionnaire. Maximum score for each category was 3.

were conducted separately on the total correct and total incorrect verdict category representation scores. As predicted, no verdict choice or verdict choice by verdict category interactions were uncovered, but verdict category main effects were revealed for both correct, $F(2,190) = 58.97$, $p < .001$, and incorrect representation scores, $F(2,190) = 25.58$, $p < .001$. Inspection of the means displayed in Tables 2.7 and 2.8 reveals two findings. With respect to correct representations, jurors cited a greater number of elements for the category of self-defense as compared to the other two categories. With respect to the verdict category of second degree murder, a substantial proportion of jurors cited an incorrect element. Examination of jurors' actual responses indicated that this incorrect element generally involved the assumption that the killing had to be "planned" or "premeditated", which was not relevant to the crown's case since it had not charged with first degree murder, but with second degree murder.

Additional analyses also indicated that the expert testimony manipulation did not influence jurors' verdict understanding.

Summary of Results

The study uncovered a number of findings with respect to the impact of expert testimony about the battered woman syndrome. First of all, depending upon the presentational form of the testimony, it had a differential impact on the decision process. As expected, the testimony provided by the specific expert, in comparison to the no expert control condition, did alter jurors' interpretations of the defendant's claim of self-defense, and this effect was also reflected in the verdicts that were rendered. When asked for the reasons for their verdicts, jurors in the specific expert condition, in comparison to the no expert control condition, also listed a smaller proportion of reasons that were unfavorable to the defendant's case. Some differences were also detected with respect to jurors' evaluations of the persuasiveness of the two attorneys. Jurors in the specific expert condition rated the prosecution lawyer as less persuasive, and the defense lawyer as more persuasive, than jurors in the other two conditions.

The results of the regression analyses that were conducted on the specific expert testimony and the no expert control condition provided support for the hypothesis that the effects of the expert testimony were mediated by the influence of the expert testimony on jurors' interpretations of the evidence (e.g., story construction). The model presented in Figures 2.3 indicates a judgmental sequence that flows from expert testimony to evaluations of the defendant's testimony to verdict decisions, but since other explanations are also consistent with this pattern of results, caution must be warranted in this interpretation. As was previously mentioned, an obvious alternative explanation is that the direction between the mediator and the dependent variable is reversed. That is, jurors were justifying the verdicts they rendered, and, therefore, verdict choice caused alternative interpretations of the facts. The recent work of Hastie and Pennington (1988) on the functional role of story construction, as well as the statistical tests performed on the present data, however, would suggest that it was the differential interpretations of the testimony that led to the different verdicts and not vice versa.

On the basis of prior findings on court experts in other content domains (Brekke & Borgida, 1988; Fox & Walters, 1987; Maass et al., 1985), it was hypothesized that the general expert testimony would be less influential than the specific expert testimony. The effects of the testimony in this condition were indeed limited to only a few measures. Compared to jurors in the no expert control condition, these jurors were more likely to perceive the defendant as unable to leave, and trapped in, the relationship. In comparison to jurors in the specific expert condition, jurors in the general expert condition also cited a great number of verdict reasons that focused on other aspects of the trial testimony (rather than the defendant) that were unfavorable to the defendant's case. They also listed fewer reasons that were specific to the defendant that were neutral in nature in comparison to jurors in the specific expert condition.

Some insight into the differential effects of the testimony can be gleamed from jurors' responses on the three measures germane to the expert testimony. No differences between

the two expert conditions were found on ratings of either the believability of the expert or the degree of support for the notion of the battered woman syndrome, but jurors in the specific expert condition, as compared to the general expert testimony condition, indicated that the testimony was more applicable to the defendant. The differential findings between the two presentational forms of the testimony are discussed more fully in the final section of the thesis. Suffice it to say for the moment, that it appears that individual jurors were very reluctant to apply the contextual framework provided by the expert to the defendant's actions unless it was accompanied by an opinion indicating that the woman fit the syndrome.

As expected, variations in jurors' representations of the verdict categories were not systematically related to either verdict choice or presence of expert testimony. These results, thus, provide support for this aspect of the Story Model. Other findings for verdict category representation also paralleled those found by Pennington and Hastie. Jurors' representations were less complete than the legal definitions and jurors made the most errors with respect to the category of second degree murder. The fact that jurors in the present study mentioned planning or premeditation as an element of this category suggests they were partially relying on their preconceived notions of what the verdict entailed. Premeditation is part of first degree murder, which was not mentioned in the stimulus material because it was not relevant to the case. For jurors to appreciate fully the meaning of second degree murder, it may be necessary to distinguish it explicitly from first degree murder.

The effects of gender found in the study indicate that males were less believing of the defendant's claim of self-defense than were females. In addition to rating the defendant as less believable than females rated her, males also perceived two of the prosecution witnesses as more believable than did females. Males scores on the beliefs about battered women questionnaire also suggests that they held more negative beliefs about battered women. This finding is consistent with the results of previous research that has found women to be better informed about the psychology of abusive relationships than men

(Dodge & Greene, 1990; Greene et al., 1989; Saunders, et. al., 1988).

Jurors' beliefs about battered women were significantly related to their interpretations and evaluations of the believability of the defendant's account of what occurred, which, in turn, was related to their verdict choice. Thus, the expert testimony could potentially have influenced decisions via its effect on jurors' beliefs about battered women in general, though no evidence for such an influence was found. Moreover, no gender by condition effects were found in the study, thus suggesting that the expert testimony, once introduced, did not have a differential impact on males and females.

In summary, three factors in the study were found to be related to verdict choice: the presence of specific expert testimony, gender, and beliefs about battered women. Two of these factors, the presence of specific expert testimony, and beliefs about battered women, seemed to operate via their effect on interpretations and evaluations of the believability of the defendant's account. Thus, both of these factors seem to contribute to evaluations and interpretations of the believability of the defendant's testimony, which, in turn, was the best single predictor of the verdict that was rendered. No gender differences were detected on the believability of the defendant's account index (although gender differences for a few of the items comprising the index were detected); but gender differences were found on the beliefs about battered women variable, indicating that gender may influence verdicts via its moderating effect on beliefs.

A model that incorporates all four variables for the no and specific expert testimony conditions is presented in Figure 2.5a. A separate set of regression analyses comparing the general expert condition with the no expert condition resulted in a model identical to that presented in Figure 2.5a, with the exclusion of the path between expert testimony and evidence evaluation/interpretation (see Figure 2.5b).[16] The models displayed in the Figures

16. As with the simplified model presented earlier (Figure 2.3), similar findings to those displayed in Figure 2.5a result if the general expert condition is included in the analyses by coding this level of condition 0 (with the no expert coded -1 and the specific expert coded 1).

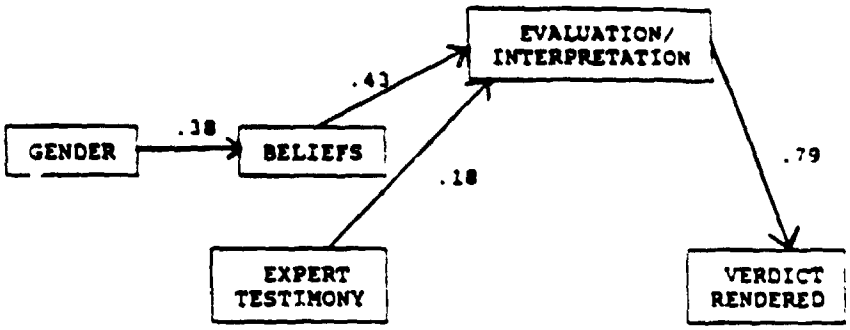


Figure 2.5a. Path model indicating relationship between gender, beliefs about battered women, expert testimony, evaluation of testimony, and verdict rendered for no expert testimony and specific expert testimony conditions.

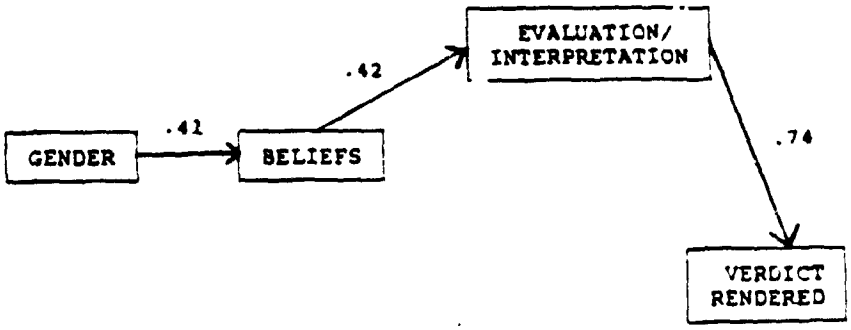


Figure 2.5b. Path model indicating relationship between gender, beliefs about battered women, evaluation of testimony, and verdict rendered for no expert testimony and general expert testimony conditions.

Note. All paths associated with t-values larger than two are are normally judged to be different from zero (Joreskog & Sorbom, LISREL VI). With the exception of the path between expert testimony and evaluation/interpretation in Figure 2.5a (t=1.8, p<.07), all t-values were larger than two.

are offered primarily as a way to help summarize the major findings of the study. In terms of the Story Model, the data suggest that expert testimony on battered woman syndrome, which is accompanied by an opinion that the defendant fits the syndrome, does alter individual jurors' constructions of the trial testimony. Furthermore, a measure of beliefs about battered women in general, which was moderated by gender, was also a significant predictor of the interpretation that jurors' cast on the trial testimony.

CHAPTER III

Study II

Introduction

In the first study jurors exposed to the specific expert testimony evaluated the defendant's self-defense claim more favorably, which resulted in their rendering more lenient verdicts. In contrast, the general expert did not have this effect and, in fact, was similar to the no expert control condition. The effects found in the study involved either verdicts or perceptions and cognitions at the individual level. The effects of the two forms of the expert testimony on deliberating groups of jurors, however, remains an empirical question. Thus, the second experiment investigated the influence of these two presentional forms of battered woman syndrome testimony on deliberating groups of individuals.

How might expert testimony pertaining to the battered woman syndrome influence the group decision process? A number of studies have focused on the relation between the initial verdict preferences of the jury members and the groups' final verdict decision. These studies tend to indicate that majorities of an initial verdict position tend to prevail (Davis, Kerr, Atkin, Holt, & Meek, 1979; Kalven & Ziesel, 1966; Ziesel & Diamond, 1978). Knowledge about jurors' initial verdict preferences alone, however, is not necessarily sufficient for predicting final group verdict. It is also instructive to consider how the testimony could potentially affect the influential pressures that are operative in groups.

Two basic types of social influence, first identified in the now classic study conducted by Deutsch and Gerard (1955), arise in group decision making tasks that require consensus. These involve normative influences, which refer to group pressures on the individual to conform with the expectation of others, and informational influences, which refer to changes in an individual's decisions that result from the information exchange that occurs in the group setting. Considerable evidence for the presence of both influential processes of influence have been found (Kaplan, 1977; Tanford & Penrod, 1986; for a review see Kaplan & Miller, 1983). Therefore, if the presence of the expert testimony, specific or general,

affects the jurors' discussion and consideration of trial evidence in some unique way, the jury's collective interpretations of the testimony, as well as their final verdict, may ultimately be affected as well. Merely examining initial preferences and final verdicts with little attention to the intervening variable of the deliberation itself may, therefore, reveal little about how the presence of the testimony may exert its impact.

Recent work in the area of jury decision making has begun to examine the content of jurors' deliberations in greater detail, thus yielding some consistent findings. For instance, those studies that have included deliberations have consistently found that jurors spend the majority of their time discussing a few content categories (e.g., Ellsworth, in press; Hastie et al., 1983; Horowitz, 1985; Tanford and Penrod, 1986). Roughly fifty percent of the jury's discussion is spent on evaluations of the trial facts and their implications. Another twenty-five percent of the discussion focuses on aspects of the law, specifically the legal definitions of the verdict alternatives and how they relate to the case facts. Hastie and Pennington (in press) also estimate that about fifteen percent of the remaining time is spent on procedural issues (e.g., when to take votes, what testimony to discuss, etc.).

How the content of these deliberations affects the final group verdict was studied by Tanford and Penrod (1986). Using simulating juries, they investigated the way in which both jurors' initial verdict preferences and the content of the ensuing deliberation contributed to the final group verdict. Initial verdict preference was a significant predictor of the content of deliberations, and the final verdict was a joint function of the initial verdict distribution and the deliberation content. Tanford and Penrod interpreted these findings as evidence for the existence of both normative and informational influences on the groups' final decision.

A jury simulation study conducted by Holstein (1985) provides some additional insight into how the jury members might arrive at a shared understanding of the case facts. Holstein (1985) examined the way in which jurors' interpretations of "what really happened" influenced the deliberation process, an approach that is certainly consistent with Pennington and Hastie's Story Model of juror decision making. In his study, Holstein presented 48 jurors

with a video-tape of a mock trial involving a charge of theft. After viewing the testimony, the jurors deliberated in groups of 5 or 6 until they reached a unanimous verdict. The deliberations were videotaped and subsequently content analyzed. Specifically, each deliberation was coded for the number of different "schematic interpretations" that were articulated during the course of the deliberation. Holstein defined a schematic interpretation as "any juror's attempt to specify what he or she thought was happening in the situation in question, i.e., any coherent sequencing of the events, or 'facts' of the case, that were verbally assembled to provide a response to the question -- spoken or unspoken -- 'what really happened?'" (p. 88).

A number of findings were uncovered. First, schematic interpretations were found to be "an invariant feature of jury deliberation." In all jury groups, at least one interpretation was articulated. Second, interpretations of the trial facts occurred predominately in the early stages of deliberations. And, third, systematic differences in jury deliberations were found as a function of the number of schematic interpretations that were articulated. The greater the number of interpretations that were raised in a particular jury's discussions, the longer the deliberation lasted and the more difficult it became to resolve, as was evidenced by the jury's decreased likelihood of reaching a unanimous verdict.

Holstein suggested that during deliberations jurors' articulations of "what happened" were derived from various sources: jurors' "unique cognitive structures" imposed on the trial testimony, organizing frameworks presented in the trial by various participants (e.g., lawyers or witnesses may structure the information), and, the interchange among the jurors that occurred during the deliberations. The results of Experiment I in the present research indicated that the organizing framework provided by the specific expert testimony altered jurors interpretations about aspects of the trial evidence. In Holstein's terminology, it altered the structure imposed on the trial testimony. This did not occur, however, for jurors exposed to the general expert testimony. The findings also suggested that this was not due to differential evaluations of the expert or the testimony, but, rather, to differential perceptions of

the applicability of the testimony to the defendant on trial.

The second experiment of the thesis was designed to explore how the presence of expert testimony about the battered woman syndrome influences the interchange of information that occurs during the jurors' deliberations. The testimony could have two potential effects. It could be used explicitly by the jurors to evaluate the problematic aspects of the testimony that it addresses, such as how the defendant, given her situation, could have reasonably feared for her life, why she may have stayed in the relationship, etc. It could also alter consideration of the trial information that the jurors raise in their deliberations. For example, the expert testimony, in contrast to the no expert testimony, provides jurors with an alternative interpretation that is more consistent with self-defense and, thus, may result in the discussion of interpretations that are more compatible with self-defense. Although this should be more likely to occur if the expert provides an opinion about the woman on trial, the general expert testimony may potentially exert some influence on the deliberation process as well. That is, if the alternative interpretations that are provided by the general expert testimony are merely raised as possibilities, their applicability may be collectively worked out by the group members.

These issues were explored by exposing small groups of individuals to one of the three possible versions of the stimulus material employed in Experiment I and asking them to deliberate on the case until a unanimous verdict was reached. Jury verdicts and the content of the deliberations were then examined for the influence of the testimony at the group level. In addition, the effects of the testimony were also assessed on jurors' post deliberation judgments. To this end, similar measures to those employed in the first experiment were included: interpretations of the trial testimony, evaluations of various trial participants, beliefs about battered women, and understanding of the verdict alternatives. The latter measure was included to test whether deliberating groups of jurors might reach a different understanding of the alternative verdict options through their group discussions and, further, whether these differences, if they occurred, would be systematically related to verdict choice.

The study also included some additional dependent measures. The purpose of the testimony is to corroborate the defendant's version of what occurred, thereby increasing the credibility of the defendant. Some evidence for a corroboration effect was found in Experiment I with respect to jurors' ratings of the extent to which the defendant was telling the truth. Thus, in this second experiment additional measures were included to examine whether the presence of the testimony influenced overall impressions of the defendant's credibility and honesty. Further, to explore whether it also altered more general impressions about the defendant, jurors were asked to rate her on other character traits as well. Items assessing attributions of responsibility for the events were also included. These tapped the extent to which the defendant and her husband were each responsible for what occurred and the extent to which the husband deserved the outcome of the events.

Finally, another measure of beliefs about battered women was also included in the experiment. This questionnaire, developed by Greene and her colleagues (1989) asked respondents to indicate how a woman in the "same situation" as the defendant would react. This measure is more specific to the defendant and her plight, and one might expect that the expert testimony, if it provides unique information to the jurors, would influence jurors' beliefs about a woman facing a similar situation. An additional advantage of this measure is that it allows for the evaluation of jurors' beliefs about battered women on a measure for which there is some existing data on the opinions of professionals in the field.[1]

Method

Design

Thirty jury groups were randomly assigned to one of the three possible versions of the homicide trial that was used in Experiment I, with ten juries participating in each of the

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1. Only the 12-item questionnaire developed by Greene et al. (1989) was available prior to conducting Study 2. Dodge and Greene (1990), however, in their more elaborate 18-item survey, collected data on the opinions of professionals on the 12 items comprising Greene et al.'s original questionnaire. Experts' responses to these items, however, were in terms of battered women in general and not with respect to a woman's particular situation.

three conditions (the no expert control condition or one of the two experimental conditions involving expert testimony pertaining to the battered woman syndrome). The deliberations of the jurors were audiotaped and subsequently content analyzed.

In addition to participating in group deliberations, jurors also completed a post-deliberation questionnaire that assessed their opinions about the group decision and deliberation, their evaluations of trial testimony and participants, their beliefs about battered women, and their understanding of the verdict alternatives. These measures were completed following deliberations, thereby creating non-independence due to groups (Anderson & Agar, 1978; Kenny, 1985; Kenny & LaVoie, 1985). The potential influence of the jury interaction on jurors' responses necessitated the inclusion of the group factor in the analyses. Thus, all post-deliberation measures were analyzed via a 3 (condition) by 2 (gender) by 10 (jury, nested in condition) hierarchically nested factorial design (for a discussion of these models, see Anderson & Agar, 1978; Kenny, 1985; Kenny & LaVoie, 1985; Koomen, 1982; Schiffenbauer, Schulman, & Poe, 1978).

Subjects

Jurors in the study were one hundred and thirty-one undergraduate students, approximately equal numbers of males (n=68) and females (n=63), recruited from an Introductory Psychology subject pool at the University of Western Ontario. They received partial course credit for their participation.

Stimulus Materials

An audio-taped version of the trial stimulus material employed in Experiment I was developed for the study, with ten different individuals playing the roles of various trial participants. There was one minor change in the script. In Experiment I jurors tended to erroneously conclude that "planning" or "premeditation" were necessary elements of second degree murder; therefore, the judge's instructions were slightly altered to clarify this

problem.[2]

The duration of the trial varied by condition. The no expert testimony version lasted approximately 59 minutes, while the expert testimony conditions each lasted about 75 minutes.

Dependent Measures: Group Level Variables

Group verdicts: Jury members were required to reach a unanimous verdict in the case. Upon reaching this agreement, one member of the group indicated the jury's decision on a separate sheet that was provided in the jury room for this purpose (see Appendix D).

Deliberation time: Deliberation time was also included as a dependent measure. It consisted of the time (in minutes) between the jury's initial discussion of the case and their final unanimous decision (or termination of the deliberation for juries at a deadlock).

Content of deliberations: The deliberations were audio-taped and subsequently transcribed to produce a written transcript of each group's discussion. These transcripts were then analyzed for the content and nature of the deliberations.

Each jury's deliberation was coded for the discussion[3] of nine or ten (depending on condition) different aspects of the trial testimony, which were chosen for their relevance to the defendant's version of what occurred: physical abuse, leaving the domestic relationship (either prior to or on the morning of the fatal incident), the defendant's perceptions of fear and danger, the defendant's intentions, the reasonableness of the force used, the defendant's initial reaction to the police, the defendant's degree of control over her actions, the general credibility of the defendant, the secretary's testimony, and explicit discussion of the expert and his testimony (expert conditions only). In turn, the discussion within each of

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2. The following two lines were added to the judge's final charge: "I should also point out to you that planning and premeditation are not a part of second degree murder. Planning and premeditation are aspects of first degree murder, which is not a verdict option in this case".

3. Jurors' did not always engage in an active discussion (e.g., exchange of opinions between jurors) each time that an issue within one of the content categories was noted; therefore, in some instances what was coded would be more accurately characterized as an explicit statement about the issue.

these categories was coded for its favorability towards the defendant's claim of self-defense (unfavorable, favorable, or neutral), thus producing three subcategories within each of the content categories. For a copy of the coding scheme see Appendix E.

The coding was performed by two individuals, one of whom was blind to both condition and hypotheses.[4] The latter coded approximately two-thirds of the deliberations, while the other coded the remaining third. Another individual, who was also blind to hypotheses and condition, then timed the duration of discussion within each of these content categories by their favorability. A composite measure of the amount of time coded within each category, separate for favorable, unfavorable, and neutral, was then calculated by summing across the time units measured within that category.

Rater reliability was assessed on a sample of seven jury group deliberations (consisting of approximately three and one half hours of material), which were independently coded by both raters. Pearson product-moment correlations between coders were calculated separately for each of the composite scores within the content categories (e.g., discussion of abuse, discussion of ability/inability to leave, etc.).[5] These analyses indicated high rates of agreement between the coders (e.g., correlations ranging from .79 to .95).

Analyses of a more qualitative nature were also conducted on the content of the deliberations. These are discussed more fully in the discussion of the results.

Dependent Measures: Individual Level Variables

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4. The coder blind to condition and hypotheses was familiarized with the case by listening to the specific expert testimony stimulus tape. As far as she was concerned all jury groups were exposed to the same material. The experimenter was the second coder and therefore was not blind to hypotheses. Furthermore, since the experimenter also transcribed the deliberations, it was not possible to conceal identification of condition.

5. Correlations were not calculated within each of the subcategories separately (e.g., abuse favorable, abuse unfavorable, abuse neutral), since the correlation would be based on only seven observations. Hence, the overall content category, which involved 21 observations (seven pairs of scores for each of the favorability subcategories), was employed for the analyses.

In addition to the measures of group outcomes, dependent measures were also collected at the individual level. Following the deliberations, jurors completed a post-deliberation questionnaire (see Appendix D for a copy of the questionnaire). The measures comprising the questionnaire are described briefly below in the order in which they were administered.

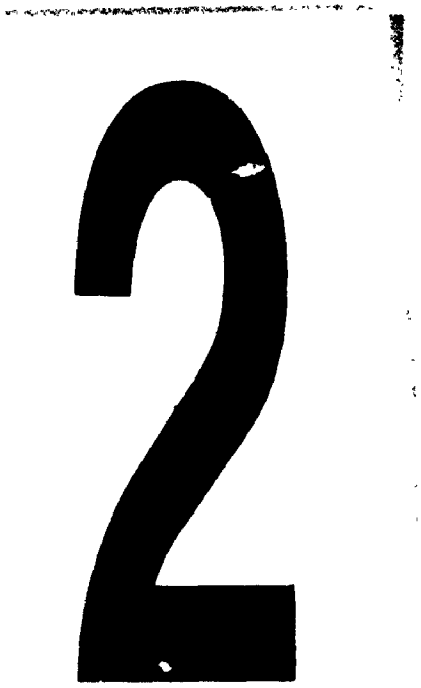
Group verdict: Jurors first indicated, on nine-point rating scales, their degree of agreement with the groups' final verdict and their degree of satisfaction with the deliberation.

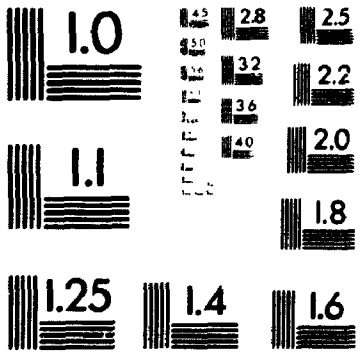
Evidence evaluation/interpretation: Jurors were then asked to complete the evidence evaluation/interpretation questionnaire that was employed in Experiment I. To assess whether jurors' attributions of responsibility and blame for the events leading to the alleged crime were altered by the expert testimony, three additional items were added to the questionnaire. One item assessed jurors' evaluations of the extent to which the defendant was responsible for the events and two items assessed the extent to which the defendant's husband was to blame for, and deserved the outcome of, the events.

Perceptions of the defendant: Jurors were asked to rate the defendant on twelve character traits using seven-point bipolar adjective scales. The traits were chosen to tap jurors' perceptions of the defendant's credibility (e.g., credible-not credible; sincere-insincere; trustworthy-untrustworthy), likability (e.g., likable-not likable; good-bad), and general character (e.g., intelligent-not intelligent; secure-insecure; assertive-unassertive; powerful-weak; respectable-unrespectable; responsible-irresponsible; traditional-non-traditional).

Evaluation of attorneys: As in Experiment I, jurors rated the two attorneys on three seven-point adjective scales (competence, convincing, effectiveness). These items were summed to form single measure of attorney persuasiveness for each of the attorneys (Cronbach's α's = .87 for both scales).

Evaluations of battered woman syndrome testimony: Those jurors exposed to the expert testimony also rated the extent to which the expert was competent, convincing, and effective. Jurors' ratings on these three items were then summed to form a single




1.0
1.1
1.25
1.4
1.6
2.8
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3.6
4.0
2.5
2.2
2.0
1.8

persuasiveness measure (Cronbach α = .65). They then rated, on nine-point scales, the extent to which the "battered woman syndrome" applied to the defendant, the degree of support for the notion of the syndrome, and the usefulness of the expert's testimony for their decision. Finally, jurors in the general expert testimony condition were also asked to indicate, in an open-ended format, why they thought the expert did not provide an opinion about the defendant on trial.

Beliefs regarding battered women: The questionnaire employed in Experiment I to assess beliefs about battered women was also administered to jurors in this study (with the omission of item 10, which was dropped from Experiment I). After performing z-transformations on responses to these items, they were again summed to form a single measure of beliefs about battered women (Cronbach α = .73).

In addition, a second measure of beliefs about battered women, developed by Greene et al. (1989), was also administered to supplement the more general measure of beliefs. A series of twelve seven-point scales asked jurors to indicate whether a woman "in the same situation" as the defendant would respond in a variety of ways (e.g., blame herself, show extreme anxiety, be persuaded to stay, believe that her husband might kill her, etc.). Jurors' responses to these items were then summed to form a single score (Cronbach α = .77).

Post-assessments of initial preferences[6]: Jurors were asked to think back to how they felt before the group deliberation and to decide which of the three verdicts they would have

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6. Pre-deliberation preferences were not collected, since asking subjects for their verdict preferences prior to their deliberations might have affected the process of the deliberation itself. Admittedly, this measure had its limitations, but since a primary focus of the study concerned the impact of the expert testimony on the jurors' deliberations, the decision was made to not assess jurors' initial verdict preferences until the deliberations were over.

To assess whether the post measure of initial preferences was affected by the deliberation process, an ANOVA was conducted to test for a group-level effect. If the measure was uninfluenced by the group interaction, no group effect should be evidenced. A significant group effect, however, was found, $F(27,71) = 2.93$, $p<.001$), thus indicating post judgments of pre-verdicts were heavily influenced by the group interaction. Because of this contamination, post assessments of preferences were discarded.

chosen if they had to decide the case at that point (i.e., "before the deliberation took place"). They were also asked to estimate, on a nine-point scale, how certain they would have felt about their verdict choice.

Verdict category understanding: Finally, a questionnaire similar to that employed in Experiment I was administered to jurors to assess their understanding of the three verdict alternatives. Since jurors in Experiment I typically failed to indicate how the facts of the case applied to each of the elements, jurors in Experiment 2 were asked only to describe the elements comprising each of the verdict options.

These open-ended responses were then independently coded by two raters using the coding scheme developed in Experiment I (see Appendix C). The average interrater reliability on the three superordinate verdict categories was 93% (92%, 95%, & 92%, for second degree, manslaughter, and not guilty due to self-defense, respectively).

Procedure

Seven men and seven women were recruited for each three hour experimental session.[7] Prior to their arrival, jurors were randomly assigned to groups, separately for males and females to ensure as balanced a jury with respect to gender as possible.[8] Jury groups were then randomly assigned to one of the three experimental conditions. Although attempts were made to achieve 4-person juries balanced with respect to gender composition, because of subject availability this goal could not always be realized. Thus, the final sample consisted of two 3-person juries, 15 4-person juries, and 13 5-person juries. Although groups were not all equal in size or gender composition, subsequent analyses indicated that

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7. The ideal number of sign-ups per experimental session was twelve (three 4-person juries), but fourteen subjects were allowed to sign up for each of the sessions to compensate for the no show rates experienced with use of the subject pool.

8. Sign-up sheets asked potential subjects to indicate whether they were acquainted with any of the persons who had signed up for the same session. To ensure that groups would be composed of strangers, friends were first separated and then randomly assigned to different jury groups. As a final check, jurors were also asked at the experiment if they were acquainted with anyone in their assigned jury group. If they were, and this occurred in three sessions, one of the friends was switched to another jury.

the differences (e.g., the number of members per jury, number of men or women per jury, the ratio of males to females) did not vary systematically across the three conditions.

For the first portion of the study, jurors met in a large testing room. Upon their arrival, they were first given a consent form describing the general nature of the experiment (see Appendix D). Once these forms had been signed, the experimenter outlined the general procedure of the study. Specifically, jurors were informed that its purpose was to examine jury decision making, and that for the duration of the experiment they would be asked to assume the role of jurors and listen to an audiotape of a re-enactment of a trial. They were instructed that, as in a real trial, they would be assigned to a jury and would have to deliberate with fellow jury members until a unanimous verdict in the case was reached. They were also informed that their deliberations would be tape-recorded. To increase the realism of the experiment, they were told that just as real jurors could not take notes or discuss the case prior to its completion they too were not permitted to communicate about the trial until completion of the evidence and the judge's instructions.

Following this general introduction, jurors were divided into their groups and told to retire to their respective jury rooms, where they waited for the experimenter's arrival to start the tape recorder. To help them follow the case, jurors were given a written outline of the general format of the trial and a diagram of the layout of the house where the killing took place (see Appendix D & the Exhibit #2 in the trial transcript, respectively).

At the conclusion of the stimulus presentation, the experimenter re-entered the room and instructed the jurors to now seat themselves around the table. Pads of paper and pencils, as well as a copy of the judge's charge, were left for the jurors' use. An empty tape was inserted in the recorder and the jurors were told that they could begin their deliberations. They were reminded that they were to continue deliberating until a unanimous verdict (total agreement) was reached and no time limit was announced. If, however, no verdict was reached within approximately 50-55 minutes the Experimenter re-entered the room and told the jurors to try and reach agreement within the next few minutes. If

agreement could not be reached, however, the deliberation was terminated and the jury was declared at deadlock.

Finally, jurors were administered the post-deliberation questionnaire, which was completed individually and without discussion. To insure that they did not communicate with others while completing the questionnaire, it was administered in the common testing room, with the experimenter present. Finally, they were thanked for their participation and provided with verbal and written feedback explaining the general purpose of the study.

Results

Group Level Variables

Jury verdicts: The frequency with which the jury groups rendered each of the three verdicts by condition is presented in Table 3.1. Although traditional Chi-square tests of significance could not be performed because of the low expected cell frequencies[9], a discernable pattern is present. No differences across the groups occurred in terms of the number of not guilty due to self-defense verdicts. In the control condition, however, the modal verdict choice was second degree murder, while in the two expert testimony conditions the modal choice was manslaughter. Since the pattern of cell frequencies was similar in the two expert testimony conditions, they were collapsed into a single category to contrast them with the no expert condition.[10] The two alternative verdicts to the prosecution's charge of second degree murder (e.g., manslaughter & self-defense) were also collapsed into a single category, thus producing adequate expected cell frequencies for applying a Chi-square test to this more limited two by two table. The test of this two-way

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9. For Chi-square tests with degrees of freedom larger than one, Cochran (1954) recommends that no more than 20% of the cells should have expected cell frequencies less than five, and no cell should have an expected cell frequency less that one. When this occurs he suggests collapsing cells in the table (if it can be done so in a psychologically meaningful way) to apply the Chi-square test.

10. Subsequent analyses on jurors' individual judgments, which are described later in the results section, also suggested few differences between the two expert testimony conditions. Thus, in contrast to Study I, combining the two expert conditions did not seem inappropriate.

Table 3.1

Jury verdicts, perceptions, and deliberation times.

		Condition		
		No Expert	General Expert	Specific Expert
Jury verdicts				
Second degree murder		6	2	3
Manslaughter		1	6	4
Self-defense		2	2	2
Deadlock		1	0	1
Agreement with verdict* (deadlock excluded)	F:	8.15	8.36	7.32
	M:	7.92	7.52	8.55
Satisfaction with deliberation*		7.29	6.78	6.72
Deliberation time (averaged in minutes)		36	38	33

* Measured on 9 point scales with 9 representing a greater degree of agreement or satisfaction.

table, expert testimony (presence vs. absence) by verdict rendered (murder vs. alternative to murder)[11] was significant, $\chi^2(1) = 4.17$, $p < .05$. The expert testimony does appear to have had an effect, albeit a moderate effect, on the jury verdicts.

Two of the measures on the post deliberation questionnaire related specifically to the deliberation and are, therefore, discussed here. Jurors were asked to indicate the extent to which they agreed with the verdict reached by their group and the extent to which they were satisfied with the deliberation. These measures were examined via 3 (condition) by 2 (gender) by 10 (group, nested in condition) ANOVAs. In this, and all subsequent analyses, the simultaneous or unique solution to the least squares approach was utilized to deal with the non-orthogonality created by the unequal cell sizes (Spinner & Gabriel, 1981).[12] The results of the ANOVA (excluding the deadlock juries) conducted on jurors' agreement ratings revealed a significant gender by condition interaction, $F(2,25) = 4.09$, $p < .05$. Simple tests of means within levels of expert testimony, using the Tukey-Kramer modification of the Honestly Significant Difference procedure for unequal cell sizes, indicated that males and females in the no expert testimony condition did not differ in their agreement ratings (see Table 3.1), while in the two expert testimony conditions significant gender differences occurred. Specifically, in the general expert condition females ($M = 8.35$) indicated greater agreement with the verdict than did males ($M = 7.52$). The reverse occurred in the specific expert condition, with males ($M = 8.55$) now indicating greater agreement than females ($M = 7.32$). The measure of agreement, however, confounds the effects of condition and verdict choice, thus rendering it difficult to interpret this interaction.[13]

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11. Deadlock juries, since they did not render a verdict, were excluded from this analysis.

12. The simultaneous solution estimates all effects in terms of their unique variance only, and shared variance is ignored. This approach is recommended by Spinner and Gabriel (1981) when the non-orthogonality is due to chance variation and no a priori reasons exist for attributing shared variance to one effect over another. The disadvantage of this approach is it provides a more conservative solution.

13. Unfortunately cell sizes were to small to investigate reliably the potential interaction of condition by gender by verdict choice on agreement ratings (e.g., only two juries in each condition rendered a not guilty verdict, only two juries in the general expert testimony

No significant effects were found on the measure assessing satisfaction with the deliberation, $\underline{F}$ (2,27) < 1, ns). Overall, high rates of satisfaction with the deliberations were experienced ($\underline{M}$ = 6.97).

Deliberation time: Table 3.1 also displays the average deliberation time for jury groups disaggregated by expert testimony condition. A one-way Anova treating condition as a between groups factor on this measure revealed no significant differences across the three conditions, $\underline{F}$ (2,27) < 1, ns.).[14] Thus, the presence of the expert testimony neither increased nor decreased the amount of time required for the jury to reach agreement.

Content of deliberations: The deliberations were analyzed for the discussion of ten critical issues of the trial testimony: defendant's ability/inability to leave, physical abuse, defendant's intentions, defendant's perceptions of fear and danger, the extent to which the defendant had control over her actions, the defendant's initial reaction, the reasonableness of the force employed, general credibility of the defendant, the testimony of the secretary, and explicit discussion of the expert testimony. On average, the coded material accounted for approximately 42% of the total jury discussion.

Two sets of analyses were conducted on these data. To explore how the presence of the expert testimony may have affected discussion of trial facts in general, the three conditions were examined for the extent to which the jurors discussed each of the first nine issues and, further, what was the nature of their discussion on these issues. A second set of analyses examined the two experimental conditions for the *way* in which the jurors' explicitly used the expert's testimony.

a) Discussion of trial testimony: Measures of the proportion of time that was coded for each of the nine content categories, derived by dividing the total time coded for that

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condition rendered murder verdicts, etc).

14. An ANOVA excluding the two hung juries form the analyses also revealed no significant differences in deliberation time as a function of condition, $\underline{F}$(2,25) < 1, ns.

category by the total time coded for the jury, were computed for each jury group.[15] Oneway ANOVA's conducted on these nine measures indicated that the presence of the expert testimony did not seem to alter the amount of time each of these issues surfaced in the jurys' deliberations. Overall, the majority of coded material was devoted to discussions involving the physical abuse suffered by the defendant (25.74%), the defendant's ability/inability to leave the situation (19.89%), the testimony presented by the secretary (18.86), and the defendant's perceptions of fear and danger (11.40%). Discussions of the defendant's intentions (8.74%) and the extent to which the defendant was in control of her actions (7.12%) also accounted for a moderate proportion of the material that was coded. Three of the categories, however, accounted for only a minor proportion of the coded material (less than five percent): the defendant's initial reaction (3.74%), the general credibility of the defendant (2.94%), and the reasonableness of the force used (1.85%).

Although the expert testimony did not alter the time jurors spent on each of the issues, it was possible that the tone of the discussion involving these issues was influenced by the presence of the expert testimony. Recall that it was hypothesized that the presence of the testimony would lead jurors to raise interpretations that were more favorable to the defendant's claim of self-defense.

Table 3.2 displays the percentage of time that was coded within six of the content categories[16] by its degree of favorability. To determine whether differences in tone of discussion occurred as a function of the presence of expert testimony, 3 (condition) by 3 (favorability) ANOVAs, treating favorability as a repeated factor, were conducted on each of the content categories. Although significant condition by favorability interactions were not

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15. An initial ANOVA conducted on the raw scores indicated no differences in overall time coded as a function of condition. Neither were there differences for condition on total deliberation time.

16. Differences in the measures of proportion of time coded by its degree of favorability were not examined for the three categories that accounted for less than five percent of the coded material.

Table 3.2

Percentage of favorable, unfavorable, and neutral discussion within each category by condition.

Category	Condition		
	No Expert	General Expert	Specific Expert
Physical abuse:			
Favourable	32.92	42.83	46.41
Unfavourable	50.18	43.58	33.79
Neutral	16.91	13.59	19.80
Ability/inability to leave:			
Favourable	27.20	32.01	33.89
Unfavourable	52.16	52.90	50.66
Neutral	10.61	15.09	15.55
Perceptions of fear:			
Favourable	53.21	78.21	69.71
Unfavourable	30.38	13.69	17.48
Neutral	6.39	7.48	12.81
Intentional killing:			
Favourable	25.53	49.65	51.48
Unfavourable	39.71	36.28	34.71
Neutral	14.70	14.07	13.81
Control over actions:			
Loss of control	36.79	53.37	50.66
Control	43.00	43.06	39.96
Neutral	10.21	3.57	9.38
Secretary's testimony:			
Favourable	15.69	24.71	14.54
Unfavourable	41.20	33.67	28.72
Neutral	43.00	31.58	46.75

Note: Subcategories within each content category do not always sum to 100 because in some instances the jury did not discuss that issue.

detected[17], some trends in the data are worth noting. In comparison to the no expert testimony condition, jurors' discussions of the physical abuse suffered by the defendant involved more favorable discussion (i.e., the defendant was abused), and less unfavorable discussion (i.e., questioning of the abuse). The same pattern also occurred with respect to jurors' discussions of the extent to which the defendant feared for her life. Discussions of the defendant's intentions, in the two expert testimony conditions, as opposed to the no expert control condition, were also characterized by a greater proportion of material that was coded favorably. A greater proportion of interpretations that were suggestive of the defendant's loss of control over her actions were coded in the expert conditions in contrast to the no expert condition. Finally, discussion of the secretary's testimony involved a greater proportion of favorable and neutral discussion in the general expert testimony condition in contrast to the other two conditions and somewhat greater percentage of unfavorable material in the no expert testimony condition as opposed to the two expert conditions.

Although these data suggest that deliberations in the jury groups exposed to expert testimony may have been characterized by discussion that involved more favorable interpretations to the defendant's claim of self-defense, this interpretation must be treated with some caution, since findings were not statistically significant. This may, however, reflect the low power associated with only ten data points per cell.[18]

b) Discussion of the expert testimony: The two experimental conditions were also

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17. These analyses revealed only significant main effects for favorability, which were primarily attributable to the smaller percentage of neutral discussion that occurred in the content categories.

18. Separate ANOVA's were also conducted on composite scores of favorable, unfavorable, and neutral discussion. No significant effects were found. A nonparametric analogue of the ANOVA test, the Kruskal-Wallis "analysis of variance" test (see Cochran, 1954), which is a less specific test, was applied to composite scores as well. Rather than limiting the test of population differences to measures of central tendency, this test assesses the more general hypothesis of identical population distributions. The analysis on favorable discussion approached significant, $\chi^2(2) = 4.90$, $p < .10$), with the no expert control group having a lower rank value ($\bar{R} = 10.55$) than the other two conditions ($\bar{R}$'s = 17.5 & 18.45, for general & specific expert conditions, respectively). Thus, there is some suggestion that the populations may differ.

examined for explicit discussion of the expert testimony. No differences between the two groups, using either raw scores or proportion scores, were detected on the amount of time jurors spent talking about the expert testimony. In absolute measures of time, very little of the deliberation involved explicit discussion of the expert testimony. On average, the testimony accounted for less than two percent of the total jury deliberation.

Although the testimony may be rarely discussed, it could exert a more subtle influence if its use occurs at crucial points in the deliberations - e.g., to provide answers to problematic issues that are raised in the defendant's testimony. To explore this possibility analyses of a more qualitative nature were performed on the data. Specifically, the deliberations were examined for the context in which jurors' drew upon the expert testimony.

With the exception of two jury groups in the general expert testimony condition, the testimony was typically raised at some point in the jurors' discussions. On average, this amounted to roughly three times during the deliberation in both expert conditions. Typically, in these instances the testimony was favorably[19] drawn upon when the jurors' were discussing aspects of the defendant's version of her actions and their implications. The texts below are illustrative of this use:

> (this statement was preceded by statements about the woman' perception of fear): It comes down, back to ah, the battered woman syndrome almost, this mind games he's been doing with her and the like mental torture type thing, the physical, she's interpreted his presence at that, in his state as a threat...
>
> (this statement was preceded by a discussion of why the defendant should have left the situation): Ya but you don't know the mentality of that because you haven't really been involved in a relationship like that, you know what I mean like we, I mean that guy that spoke, the specialist, I'd be inclined to believe that you know and all the things that they've done

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19. In a few juries (two juries in each condition), the usefulness of the testimony was questioned and dismissed or alternatively, the expert testimony was interpreted in a fashion unfavorable to the defendant's claim. For example, a juror in one jury questioned why the defendant did not leave after the initial beating that morning "if she was so scared of her husband as the psychologists' point of view indicated", while another juror stated that "she should be used to the beating and it shouldn't bother her as much if she was like the psychologist said."

> you know in research this...that's probably a very true syndrome, I mean women you know that are afraid you know tend to stay because, true, they don't have anywhere to run to.

In some instances the statements were brief and used to provide confirmation of a statement made; "ya, but that corresponds with the battered woman thing"; "but he [the husband] was always saying that if she did leave he would kill her and everything I mean and then that psychologist was saying that"; "well he [the husband] didn't have a motive for beating her up because, um, I don't know if you guys remember but when the psychologist was talking he said that a lot of the time he wouldn't beat up the wife because of her, but what he was doing, his own problems".

In summary, these qualitative analyses suggested that, although the testimony provided by the expert was raised only occasionally during the deliberation, it occurred at points of contention and was typically used to back up interpretations that were favorable to the defendant's version of what occurred.

Individual Level Variables

Evidence evaluation/interpretation: The items comprising the evidence evaluation questionnaire were analyzed in a similar fashion to that employed in Experiment I. The results of the Dunnett comparisons conducted on mean jury ratings for each of the expert testimony conditions with the no expert control condition on these items are displayed in Table 3.3.[20] Although means across the three conditions reveal a consistent pattern, significant differences were found on only 5 of the 19 measures for the general expert condition, and 2 of the measures for the specific expert condition. In contrast to the no expert control juries, juries exposed to the general expert testimony were more likely to indicate that the defendant feared for her life and that she thought that her life was in danger. Moreover, these juries also felt that there was a greater likelihood that the

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20. Because of the non-independence created by the group interaction, the Dunnett comparisons were performed on jury mean ratings (computed by averaging jury members ratings on the item), rather than individual scores within condition.

Table 3.3

Dunnett comparisons of mean jury ratings for expert testimony conditions with the no expert control group on items comprising evidence evaluation/interpretation questionnaire.

	Condition		
	No Expert	General Expert	Specific Expert
1 ...defendant intended to inflict an injury that was likely to result in death?	6.23	4.91	5.68
2 ...defendant feared for her life on the morning of the crime?	5.10	7.33*	6.22
3 ...defendant's life was in danger on the morning of the crime?	4.66	5.17	5.39
4 ...defendant thought her life was in danger on the morning of the crime?	5.15	6.90*	7.52*
5 ...defendant could leave the house instead of shooting her husband?	7.17	7.03	6.87
6 ...defendant was trapped in her relationship, unable to leave?	4.93	6.10	6.01
7 ...defendant was physically abused by her husband on regular basis?	5.07	6.72*	7.20*
8 ...on victim's return to the bedroom, he began to attack his wife?	3.98	5.44*	5.22
9 ...severity of beating (if at all) by husband on the morning of the crime?	4.92	6.05*	5.81
10 ...defendant believed force used against her husband was necessary to prevent injury?	4.58	5.85	5.66
11 ...defendant's actions were under her control on the morning of the crime?	6.08	4.83	4.82
12 ...extent to which defendant was responsible for the events?	4.48	5.13	4.62
13 ...defendant was telling the truth on the witness stand?	4.35	5.72	5.64
14 ...accuracy of secretary's time esimate of when shooting occurred?	5.81	4.97	4.62
15 ...secretary could heard what occurred between defendant and husband?	5.51	5.24	4.81
16 ...secretary was telling the truth on the witness stand?	6.79	6.36	6.74
17 ...mother of deceased was telling the truth on the witness stand?	5.38	4.78	5.07
18 ...extent to which husband was to blame for the events that occurred?	5.71	6.56	6.02
19 ...extent to which husband deserved the outcome of the events that occurred?	3.01	4.09	3.48

* Differs from no-expert control ($p = .05$, one tailed) using Dunnett's test which controls the Type I error rate experimentwise per set.

Note. Wording of items is abbreviated and slightly modified. Higher scores indicate greater agreement with the statement.

defendant was abused on a regular basis, that a physical attack occurred that morning, and that the attack was severe. Only two significant differences were found between the no expert testimony control condition juries and the specific expert condition juries - the extent to which the defendant feared for her life and the extent to which she was abused on a regular basis. Given the low power associated with these analyses (n=30), however, it is worth noting that a number of the means are in the expected direction, with the two expert testimony conditions suggestive of more favorable evaluations of the defendant's version of what occurred.

The mediational model presented in Experiment I indicated that the influence of the expert testimony operated indirectly via its impact on jurors' interpretations and evaluations of the trial testimony. A test of this model could not be performed on individuals' responses for the present data, because of the non-independence created by the group deliberations. To determine, however, whether similar processes operated at the jury level, regression equations were computed and tested at the group level. The results of the analyses are interpreted at the group level of generalization.

Rather than performing separate analyses for each of the expert testimony conditions with the no expert control group (as in Experiment I), the expert testimony conditions were combined to increase the sample size of the analysis to twenty-eight[21] (the deadlock juries were excluded). Thus, condition was coded -1 for no expert and 1 for presence of expert (general and specific conditions), while verdict was coded 1 for second degree murder, 2 for manslaughter, and 3 for self-defense. A measure of evidence evaluation was computed by summing jurors' responses on those items that comprised the believability of the defendants' account index (identified in Experiment I).[22] Individual jury members' responses were then

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21. This did not seem objectionable given the findings on the measures of jury verdicts and evidence evaluation items suggested that the effects of the expert was similar in the two conditions.

22. The Cronbach α for the composite measure was .93.

averaged to derive a group level measure of evidence evaluation.

The results of the regression analyses that first excluded and then included the believability of the defendant's account index are reported in Table 3.4. In contrast to Experiment I, the relation of the expert testimony to verdicts was weak and, in fact, not statistically significant, but given a sample size of only 28 this is, perhaps, not so surprising. On the other hand, the addition of the believability of the defendant's account index increased the overall explanatory power of the equation (from 5% to 77%). As the model depicted in Figure 3.1 suggests, the presence of the expert testimony lead to interpretations within the jury group that were more favorable to the defendant's account of what occurred, and these interpretations, in turn, were highly related to the verdict the jury rendered.

Effects for gender on the evidence evaluation/interpretation items were also investigated. Separate gender by condition by group (nested in condition) ANOVA's conducted on the items revealed gender main effects on four of the items: the defendant's life was in danger, the force used was necessary, the defendant's truthfulness, and the secretary's truthfulness, F's = 8.83, 7.25, 7.71, 4.45, p's < .05. Marginal main effects for gender were found on four additional items: the defendant's perception that her life was in danger, the defendant feared for her life, the likelihood of abuse on a regular basis, and the secretary's ability to hear what occurred, F's = 4.11, 3.91, 3.59, 3.08, p's < .10. Examination of the means displayed in Table 3.5 closely parallel some of those obtained in Experiment I. In comparison to males, females tended to be more favorable towards the defendant's version of what occurred than males, and males tended to be more believing of the secretary's testimony.

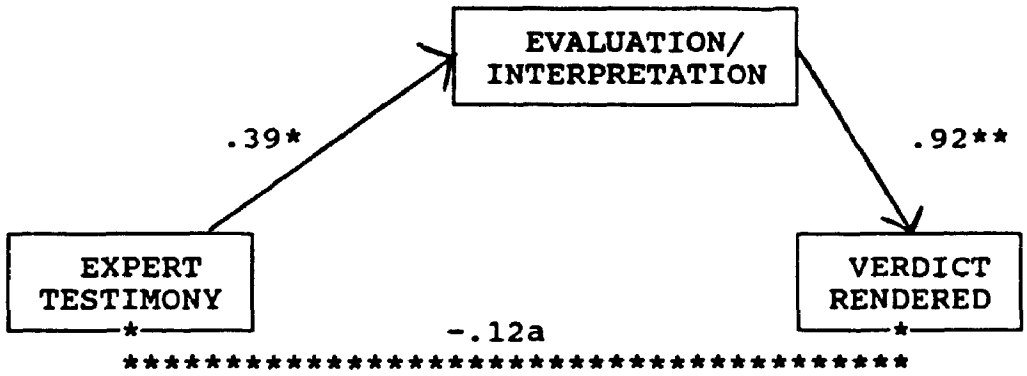
In addition to these overall effects for gender, significant gender by condition interactions were found on three measures: jurors' ratings of the extent to which the defendant was trapped in her relationship, $F(2,27) = 5.80$, $p < .01$, the extent to which the husband was to blame for the events, $F(2,27) = 3.82$, $p < .05$, and the extent to which the defendant's life was in danger, $F(2,27) = 3.36$, $p < .05$. The cell means comprising these

Table 3.4

Predictors of jury verdicts rendered as a function of expert testimony: No expert control vs. expert conditions.

Predictor	Regression coefficients	
	Without E/I Variable	With E/I Variable
Expert testimony	.24	-.12
E/I of Testimony	-----	.92*
	R^2 =.05	R^2 =.77

Note. E/I=Evaluation/interpretation ("believability of defendant's account" index)
*p <.001



a p > .05
* p < .05
** p < .001

Figure 3.1 Path model indicating relationship between expert testimony manipulation (no expert vs. expert conditions), evaluation/interpretation of testimony, and jury verdict rendered.

Table 3.5

Mean ratings on significant items comprising evidence evaluation/interpretation questionnaire by gender.

		Gender	
		Females	Males
1	...defendant feared for her life on the morning of the crime?	6.60	5.81
2	...defendant's life was in danger on the morning of the crime?	5.29	4.54
3	...defendant thought her life was in danger on the morning of the crime?	6.56	5.79
4	...defendant was physically abused by her husband on regular basis?	6.54	6.03
5	...defendant believed force used against her husband was necessary to prevent injury?	5.71	4.91
6	...defendant was telling the truth on the witness stand?	5.48	4.93
7	...secretary could heard what occurred between defendant and husband?	4.98	5.43
8	...secretary was telling the truth on the witness stand?	6.27	6.88

Note. Wording of items is abbreviated and slightly modified. Higher scores indicate greater agreement with the statement.

Table 3.6

Cell means comprising significant gender by condition interactions.

Item		Condition: No Expert	General Expert	Specific Expert
1 ...defendant was trapped in her relationship, unable to leave?	F:	5.59a	5.85a	5.71a
	M:	3.74b	6.21a	6.22a
2 ...defendant's life was in danger on the morning of the crime?	F:	5.67a	5.52a	5.42a
	M:	3.61b	4.78a	5.27a
3 ...extent to which husband was to blame for the events that occurred?	F:	5.28b	6.95a	6.33ab
	M:	6.04a	6.08a	6.33a

Note. Means sharing different subscripts within a single row are significantly different at $p < .05$, using the Tukey-Kramer modification of the HSD.

interactions are displayed in Table 3.6. Tests of simple main effects within levels of gender, indicated that female jurors' ratings of the extent to which the defendant feared for her life and her life was in danger were the same regardless of condition. In contrast, male jurors were less likely to indicate that the defendant feared for her life and that her life was in danger in the no expert condition as compared to males in the two expert testimony conditions. Finally, female jurors in the general expert condition attributed greater blame to the husband in comparison to female jurors in the no expert testimony condition. Females' ratings in the specific expert condition fell midway between.

Ratings of the defendant: Jurors rated the defendant on twelve bipolar traits. Responses to these items were examined by separate 3 (condition) by 2 (gender) by 10 (group, nested in condition) ANOVAs. A main effect for gender was found on only one item, ratings of the likability of the defendant, F (1,27) = 6.42, p <.05); males (M = 3.88) rated the defendant as less likeable than did females (M = 3.28). Significant differences for condition were found on four of the character traits, F(2,27)'s = 6.83, 4.41, 3.47, 3.41, p < .05, for ratings of the degree to which the defendant was traditional, credible, trustworthy, and responsible, respectively. Marginal main effects for condition were revealed on three additional traits; F(2,27) = 2.95, 2.95, 2.70, p's < .10, for ratings of the extent to which the defendant was responsible, secure, and sincere, respectively. The cell means comprising these effects are displayed in Table 3.7. Tests of means revealed that in both expert testimony conditions the defendant was rated as more traditional and trustworthy than in the no expert control condition. She was also rated as more credible, good, and secure, in the specific expert condition than in the no expert testimony condition. With the exception of the trait of secure for which ratings in the general and the no expert conditions did not differ, ratings in the general expert testimony condition fell in between.

Evaluations of trial attorneys: In Experiment I, the presence of the specific expert testimony colored jurors' general impressions of the persuasiveness of the two attorneys. Jurors in this condition rated the defense attorney as more persuasive, and the Crown

Table 3.7

Attribute ratings of defendant by condition.

Attribute	Condition		
	No Expert	General Expert	Specific Expert
traditional - non-traditional	5.91a	5.59b	4.95b
trustworthy - untrustworthy	3.63b	4.73a	4.65a
credible - not credible	4.86a	4.04ab	3.77b
good - bad	4.29b	4.84ab	5.30a
secure - insecure	1.93a	1.84a	1.42b
sincere - insincere	4.25a	3.16a	3.26a
responsible - irresponsible	4.04a	4.02a	3.35a

Note: The adjective underlined represents the high end of the seven point scale.

attorney as less persuasive, than jurors in the other two conditions. Separate ANOVA's performed on jurors' persuasiveness ratings for the two attorneys in this second experiment, however, revealed only one significant effect, namely a condition by gender interaction on ratings of the Crown attorney's persuasiveness, F (2,27) = 3.66, p <.05. Simple tests of means within levels of expert testimony indicated that in the general expert testimony condition females (M = 16.67) rated the Crown attorney as more persuasive than males (M = 14.17), whereas in the specific expert (M 's = 14.57 & 15.17 for females & males, respectively) and the no expert control (M = 14.38 & 15.45 for females & males, respectively) conditions the Crown attorney was rated similarly.

Evaluations of expert testimony: In addition to providing three ratings of the persuasiveness of the expert (summed to form a composite score), jurors in the two expert testimony conditions were also asked to indicate the extent to which the battered woman syndrome applied to the defendant, the degree of support for the battered woman syndrome, and the usefulness of the testimony. In contrast to Experiment 1, no differences were revealed in ratings of the expert testimony in terms of its applicability to the defendant. Neither were any differences found for the persuasiveness of the expert or the degree of support for the syndrome. A marginally significant gender effect was found on jurors' ratings of the usefulness of the testimony, F (1,18) = 4.17, p <.06, with females rating the expert's testimony as more useful (M = 5.33) than males (M = 4.62).

Jurors in the general expert testimony condition also indicated why they thought the expert did not provide an opinion about the defendant. Examination of these data suggested that, on the whole, jurors were not negative about the expert's failure to provide an opinion. Very few jurors (n=3) stated that the lack of an opinion probably implied that she did not fit the syndrome. Rather, responses were typically of the following nature: "he never had a chance to examine her and an opinion expressed by him would not be credible due to this fact," "he didn't have a chance to examine her and didn't want to presume."

In summary, it appears that on the measures directly assessing jurors' opinions

about the expert testimony the two conditions did not differ.

Beliefs regarding battered women: Two different measures of jurors' beliefs about battered women and the battering context were collected in the experiment: the original measure employed in Experiment 1 and Greene et. al's (1989) Battered Woman Questionnaire (beliefs about battered women in a "similar situation"). The jurors' composite scores on both of these measures were submitted to 3 (condition) by 2 (gender) by 10 (group, nested in condition) ANOVAs. Similar to the findings in Experiment 1, no main effect for condition was found on the original measure of beliefs about battered women. A significant gender main effect, however, was revealed, F 's(1,27) = 18.12, $p < .001$, with males expressing less agreement with the research findings (M = -2.06) than females (M = 2.23). The analysis on Greene et al.'s Battered Woman Questionnaire revealed an identical pattern of results; a main effect for gender, $F(1,27) = 22.43$, $p < .001$, with females indicating greater agreement with the general findings on battered women (M = 65.89) than males (M = 59.71).

Tables 3.8 and 3.9 display jurors' mean responses, both overall and, separately, for males and females, on each of the items comprising the two measures. Table 3.9 also presents the mean responses obtained on these items from professionals in the field (Dodge & Greene, 1990). Although it is difficult to draw conclusions from observed discrepancies between the responses of jurors in the present study and the professionals surveyed by Dodge and Greene (jurors' ratings were in response to a woman in a similar situation as the defendant, whereas the experts were in response to battered women in general), it is interesting to note that on at least half of the items the jurors' beliefs varied somewhat from the experts (one- to two-point differences on a seven point scale on items 1, 4, 6, 8, 11, & 12).

Another finding that occurred on both measures is worth noting. The nested design has an additional advantage in that it also provides a test of the group effect, which certainly can be of interest in its own right (Koomen, 1982). A significant group level effect indicates

Table 3.8

Mean responses on items comprising beliefs about battered women questionnaire by gender.

	OVERALL MEAN	FEMALE (N=45)	MALE (N=63)
1. Women who are subjected to psychological and physical abuse tend to have low self-esteem.*	2.15	2.40	1.93
2. Because battered women live in fear, they cannot think clearly about leaving the violent situation.**	1.27	1.65	.91
3. The type of man who beats his wife will do so regardless of what his wife does or does not do.**	1.55	2.11	1.83
4. Wife abuse is more pervasive in families that are poor.**	-.47	-1.05	.07
5. A woman will move out of the house if her husband beats her severely.	-.50	-.75	-.29
6. A husband is sometimes justified in hitting his wife.	-2.64	-2.76	-2.53
7. In general, men who beat their wives tend to have lower levels of education.*	-1.33	-1.67	-1.01
8. Some women seem to get pleasure from being beaten up by their husband.*	-1.71	-2.02	-1.43
9. If a man hits his wife, she probably did something to deserve it.**	-2.17	-2.51	-1.85
10. Any sensible woman would end a relationship where she was subjected to physical violence.	1.05	.89	1.19
11. A woman that refuses to leave a husband who beats her gets what she deserves.	-1.82	-1.89	-1.75
12. What percentage of battered women do you think will report to the police that they have been subjected to physical abuse at the hands of their husband?	.47	.46	.49
13. What percentage of battered women do you think turn to family and/or friends for help?	-.11	-.13	-.09

*$p<.05$; **$p<.01$ indicates significant differenes between men and women.

Note: For items 1 to 11 mean responses less than 0 indicate disagreement with the statement, while means greater than 0 indicate agreement with the statement (agreement for items 1 to 3 is consistent with the research findings, while for i 4 to 11 it is inconsistent with the findings). And, responses to items 12 and 13 obtained on five point scales with the lower end of the scale more consistent with general research findings.

Table 3.9

Mean responses on items comprising Greene et al.'s Battered Woman Questionnaire by gender.

	OVERALL MEAN	FEMALES (N=63)	MALES (N=68)	EX-PERTS[a]
1. A woman (in this situation) would blame herself.**	.81	1.37	.29	2.47
2. A woman would show anxiety and depression.*	1.99	2.18	1.82	2.18
3. Once violence used, always a potential threat.	2.21	2.38	2.04	2.16
4. A woman who chooses to remain must not be suffering.	-1.67	-1.79	-1.56	-2.80
5. A woman would be persuaded to stay by promises never to hurt her again.	1.35	1.54	1.16	2.24
6. A woman would feel dependent on husband.**	1.18	1.65	.74	2.44
7. A woman would believe leaving would result in further harm.	1.60	1.79	1.41	1.66
8. A woman can predict violence.	-.15	-.13	-.18	.43
9. A woman deliberately provokes violence.	-1.66	-1.67	-1.65	.49
10. A woman feels helpless.**	.99	1.54	.49	.36
11. A woman believes husband might kill her.*	1.27	1.51	1.04	2.71
12. A woman believes in using deadly force.**	-.14	.35	-.60	2.26

* $p. < .05$; ** $p. < .01$ indicates significant differences between men and women.

a. The mean responses obtained from the professionals reported by Dodge & Greene (1990) are reproduced as a comparison. These responses were obtained for battered women in general and were not specific to a particular woman's situation.

that responses on the dependent measure are not merely a result of a collection of individuals, but rather the interaction of the group and the influence it has had on the individual members. On the ANOVA's conducted on the other measures discussed thus far the group level effect was invariably found to be significant. In contrast, no significant effect for group was found on either of the measures assessing beliefs about battered women. Thus, it appears that neither the group interaction nor the presence of the expert testimony influenced these beliefs. To the extent that valid measures of jurors' beliefs about battered women were obtained, these finding may be suggestive of the stability of these beliefs.

Verdict category understanding: Experiment I indicated that jurors' understanding of the verdict alternatives did not vary by the verdict they rendered or the presence of the expert testimony. Three-way ANOVA's, treating verdict as a between subjects variable, verdict category as a within subjects variable, and jury group as a random variable nested in verdict choice were performed on jurors' verdict category scores, separate for correct and incorrect citations (see Tables 3.10 & 3.11). As expected, no verdict choice or verdict choice by verdict category interactions were revealed. As in Experiment I, however, a verdict category main effect was found on jurors' correct verdict category citations, F (2,36) = 19.09, p <.001. The results parallel those found in Experiment 1. A greater number of correct citations were listed for self-defense as compared to the other two verdict options. No effects were found on jurors' incorrect verdict category citations. Thus, it appears that the judge's additional instructions regarding the definition of second degree murder (i.e., distinguishing it from first degree murder) reduced the errors in this category (although it is also possible that the group discussion was responsible, in whole or in part, for the reduction in errors).

Additional analyses also indicated that verdict category understanding did not vary as a function of the presence of expert testimony.

Summary of Results

In contrast to the results of Experiment I, both forms of the expert testimony

Table 3.10

Mean correct verdict-element citation for each category by subjects' jury verdict choice

Verdict Choice	Verdict Category: Second-degree	Man-slaughter	Self-defense	All verdicts
Second-degree (n=44)	1.09	1.00	1.63	1.24
Manslaughter (n=51)	.94	1.19	1.65	1.26
Self-defense (n=22)	1.09	1.23	1.50	1.27
Deadlock (n=9)	1.22	1.00	1.77	1.33
All jurors (n=126)	1.04	1.12	1.63	1.26

Note. The total N does not equal 131 because not all subjects completed the questionnaire. Maximum score for each category was 3.

Table 3.11

Mean Incorrect verdict-element citation for each category by subject' jury verdict choice

Verdict Choice	Verdict Category			
	Second-degree	Man-slaughter	Self-defense	All verdicts
Second-degree (n=44)	.09	.09	.02	.07
Manslaughter (n=51)	.20	.08	.06	.11
Self-defense (n=22)	.23	.27	.05	.18
Deadlock (n=9)	.00	.00	.00	.00
All jurors (n=126)	.15	.11	.04	.09

Note. The total N does not equal 131 because not all subjects completed the questionnaire.

influenced responses on a number of dependent measures. The effects, however, were significantly weaker than those obtained for the specific expert testimony condition in the previous experiment. In comparison to the jury verdicts rendered in the no expert control condition, there was a modest trend towards more manslaughter verdicts in the expert testimony conditions. Although the presence of the testimony did not alter deliberation time, there was some suggestion (although not statistically signficant) that differences in the tone of discussion occurred as a function of the testimony's presence. Examination of jurors' explicit use of the expert testimony also revealed that they drew upon it to support interpretations that were consistent with the defendant's claim of self-defense. On jurors' post deliberation judgments about the expert and the testimony he presented, no differences were detected across the two experimental conditions.

Evidence for the effects of the expert testimony were also found on jurors' post deliberation evaluations of some aspects of the trial testimony. The interpretations most influenced were those assessing the defendant's perceptions of fear and the severity and likelihood of abuse. General impressions of the defendant were also affected by the presence of the testimony. In the general expert condition these differences were limited to judgments about how trustworthy and traditional she was, while in the specific expert condition the differences also included more general traits such as secure and good. Consistent with the results of Experiment I, jurors beliefs about battered women were also not affected by the presence of the expert testimony. The results of the present experiment also suggested that these beliefs were unaffected by the jury members' interactions.

With respect to the effects of gender, female jurors indicated greater belief in the defendant's version of what occurred than male jurors. Males in comparison to females had a tendency to be more believing of the secretary's testimony. Some evidence for this was also found in Experiment I. With the exception of ratings on the likability dimension, males and females did not differ in terms of their overall impression of the defendant. As in Experiment I, the female jurors tended to agree more than the male jurors with the general

findings on battered women. Females also tended to indicate that the expert testimony was more useful than did males. Evidence for differential use of the testimony by males and females, however, tended to indicate that, if anything, males were more likely to be affected by the testimony. In contrast to males in the no expert testimony condition, males in the two expert testimony conditions were more likely to feel that the defendant's life was in danger and that she feared for her life. Females, on the other hand, were more likely to ascribe blame to the husband if they were in the general expert condition as opposed to the no expert condition.

Finally, consistent with the findings of Experiment I, jurors' post deliberation verdict representations were not related to jury verdict choice.

CHAPTER IV

GENERAL DISCUSSION AND CONCLUSIONS

Summary of Findings and Legal Implications

Although social scientists and legal scholars have debated the merits of expert testimony about the battered woman syndrome for some time, claims about its value and impact on the jury have not been submitted to empirical tests. The present research was conducted to provide some understanding about its effects on the decision process. As outlined in the introduction of the thesis, the purpose of "social framework" evidence, as Monahan and Walker (1986) have labelled this type of testimony, is to provide the jury with information about the social and psychological context in which contested facts of the case occurred. This contextual knowledge, it is presumed, will help the jury interpret issues under dispute in the trial. Underlying the rationale concerning t' ' claims about the function of the testimony is the notion that the information supplied by the expert is either unknown and/or at variance with what jurors are likely to believe is true. The findings of the present research offer some insight on each of these claims.

First of all, the purpose of battered woman syndrome testimony is to provide jurors with an alternative framework or perspective from which to interpret the defendant's beliefs and actions surrounding the homicide. A primary goal of the testimony is to supply the jurors with an explanation for why the defendant could have had a reasonable fear for her life when she struck out against her husband, a necessary requirement for the establishment of self-defense. General support for this function of the testimony was found in the research. In both experiments, consistent patterns of means were revealed on the evidence/evaluation items assessing the defendant's perceptions of fear and danger, with the presence of the testimony altering the extent to which jurors perceived the defendant to have feared that her life was in danger. In Experiment I, these effects, however, were limited to the specific expert testimony condition only.

The testimony also supplies jurors with explanations for aspects of the defendant's

domestic relationship that they might otherwise find difficult to comprehend, such as why she did not leave the relationship. Some evidence for this function was also found. In Experiment I, jurors in both expert testimony conditions, as compared to jurors in the no expert condition, were more likely to indicate that the defendant was trapped in her relationship and was less able to leave the morning of the incident. In Experiment II, however, only beliefs about the extent to which the defendant was trapped in the relationship were altered by the presence of the testimony.

Finally, by providing jurors with a context from which to view the woman's actions as reasonable, it is presumed that the testimony will corroborate the credibility of the defendant. That is, because aspects of her testimony are rendered more plausible, jurors will perceive the defendant as a more credible witness. Some evidence for a corroboration effect was also found in both studies. In Experiment I jurors exposed to the specific expert testimony were more likely to indicate, as compared to jurors in the other two conditions, that the defendant was telling the truth in the witness box. Judgments of the trustworthiness of the defendant were also increased by the presence of the expert testimony (general or specific) in Experiment II. In comparison to the no expert control condition, jurors in both of the expert conditions also viewed the defendant as more traditional, one of the character traits used by the expert to describe battered woman syndrome. There was also some indication that jurors in the specific expert condition in Experiment II perceived the defendant more positively (e.g., good & secure).

The presence of the testimony, it is argued, influences jurors' interpretations about the particular defendant by providing them with allegedly unique information about battered women and battering relationships. Measures of jurors' beliefs about battered women, however, were not altered by exposure to the expert testimony. Although many of the items comprising the questionnaire touched on phenomena the expert discussed, no differences on jurors' beliefs regarding battered women were found across the three conditions. In short, no evidence for the influence of the testimony on jurors' general beliefs about battered

women was found in either of the experiments.

Examination of jurors' responses on many of the items comprising the measures of beliefs about battered women, indicated that they were relatively informed on some aspects of spousal abuse. For instance, justification for wife abuse was not expressed by the jurors; on items such as "a husband is sometimes justified in hitting his wife" and "the woman did something to deserve the beatings" means were close to the extreme value of disagreement on the seven-point scale. Comparisons between the responses of jurors in Experiment II and professionals in the field on Greene et al.'s Battered Woman Questionnaire, however, did suggest that there may be some aspects of spousal abuse on which the jurors differed from the experts. Some of these items encompassed dimensions that were crucial to the defendant's claim of self-defense: a battered woman's belief that her husband might kill her and her belief that she may need to use deadly force. The jurors also seemed less willing to agree with some psychological aspects of a battered woman's inability to leave the relationship (e.g., her perceptions of dependency and self blame, her willingness to stay because of promises by her spouse not to hurt her, the degree to which she must be suffering if she remains).

Since the responses of the two groups were provided with reference to different stimuli, caution is warranted in drawing any conclusions from these comparative data. They do suggest, however, that since no condition differences occurred, there may be some resistance to applying aspects of the testimony (at least on the basis of the particular defendant's situation) to battered women more generally. It is also possible that the measures of beliefs employed in the study, especially given the sensitive nature of the topic, were not sensitive enough to detect differences across conditions. Thus, whether the expert testimony supplied the jurors in the present study with unique information about battered women still remains an open question. Since measures of jurors' beliefs about battered women were highly predictive of their evaluations of the defendant's testimony and their final verdicts in Experiment I, this will be important issue to address in the future.

In addition to the impact of the expert testimony on the decision process, a number of consistent findings for the effects of gender were found across the two experiments. On the whole, female jurors were much more believing of the defendant's version of the events and less believing of aspects of the secretary's testimony than males. They were also more likely to indicate agreement with the research findings on battered women than were males. The model presented in Experiment I suggested that gender was related to verdicts via its moderating effect on beliefs about battered women. Very few gender by condition interactions were found in Experiment I, suggesting that, on the whole, the expert testimony did not have a differential effect on males and females. In Experiment II some noteworthy gender by condition interactions were evidenced. Although, female jurors were more likely to indicate that the expert's testimony was useful, male jurors were more likely to believe that the defendant's life was in danger and that she was trapped in the relationship if the expert testimony was present than if it was not.

The explanation for the effects of gender that has been articulated rests on a cognitive explanation, that is, differences in men's and women's knowledge about battered women. It is also possible, however, that the greater leniency in judgments on the part of female jurors may be due to motivational processes. According to Shaver (1985), when individuals must make judgments of another's responsibility for an event with negative consequences, they will be motivated to minimize attributions of responsibility if they perceive that they might someday find themselves in a similar situation. Shaver refers to this as a process of "defensive attribution." Thus, if it is the case that women are more likely to identify with the battered woman in the trial than are men, a plausible assumption, then their more lenient reactions may be motivationally based as well. One finding in Experiment II, however, is inconsistent with this explanation. Males and females did not differ in the extent to which they attributed responsibility to the defendant for the outcome of the events. The cognitive and motivational explanations, however, are difficult to disentangle as it is (see Tetlock & Levi, 1982), and the data collected in the present study do not allow one to

adequately distinguish between them.

The findings uncovered by the research have a number of applied implications for the legal arena. Taken in their entirety, they tend to indicate that the presence of battered woman syndrome testimony in homicide trials involving battered women can provide jurors with an alternative framework for interpreting aspects's of the defendant's testimony. In both experiments more lenient judgments towards the defendant were likely to be rendered if the testimony was present. In Experiment I, there was an increase in the number of self-defense verdicts and a decrease in the number of second degree murder verdicts that were rendered when the specific expert testimony was present. In Experiment II, using jury verdicts as the dependent measure, neither of the expert conditions, in comparison to the no expert condition, increased the number of not guilty verdicts that were rendered. Rather, the differences occurred with respect to manslaughter verdicts. The effects appear to be weaker in the second experiment, but the limited power associated with the much smaller sample size should be kept in mind. Furthermore, in the second experiment the general expert testimony appeared to be exerting the same influence on the decision process as the specific expert testimony. This difference across the studies will be addressed shortly.

It should also be noted that the impact of the expert testimony was tested in a situation in which it should exert its greatest influence, when all elements of the self-defense charge were present. The judge's final instructions reflected all possible elements of self-defense, a reasonable apprehension of fear or bodily harm, a reasonable use of deadly force, and exhaustion of all reasonable means of escape from the confrontation. In Experiment II, the presence of the expert testimony increased jurors' perceptions of the extent to which the defendant feared for her life. In contrast, jurors' post-deliberation judgments, as well as the content of their deliberations, indicated that jurors, regardless of condition, had particular difficulty with the fact that the defendant did not leave the house instead of shooting her husband. In reality, however, the retreat obligation is not always necessary for the defendant's establishment of self defense, thus, suggesting that overall

(i.e., across all conditions) more lenient judgments might have been rendered if this element was not required.

The findings also address some recent concerns that legal scholars have raised about the testimony. Schneider (1986), for instance, has argued that the battered woman syndrome testimony fails to provide an adequate explanation for the reasonableness of the defendant's actions. She suggests that although the term battered woman syndrome is used only descriptively, the content of the testimony and the "import of the term carry a different meaning" (Schneider, 1986, p. 207).

> From the standpoint of the jury's determination of whether the woman acted reasonably in self-defense the explanation of the "battered woman syndrome" is only partial. Giving commonality to an individual woman's experience can make it seem less aberrational and more reasonable. Yet, to the degree that the explanation is perceived to focus on her suffering from a "syndrome", a term which suggests a loss of control and passivity, the testimony seems to be inconsistent with the notion of reasonableness, and the substance of the testimony appears to focus on incapacity (Schneider, 1986, p. 207).

Some support for such an interpretation was found in the present research. That is, jurors exposed to expert testimony (specific only in Experiment I) were more likely to indicate that the defendant had less control over her actions than jurors not exposed to the testimony. Moreover, in Experiment II there was a trend for juries in the expert testimony conditions to spend more time raising interpretations in their deliberations that were indicative of the defendant's lack of control, which was consistent with their rendering more verdicts of manslaughter. Along these lines, it is interesting to note that in four juries exposed to the general expert testimony and three juries exposed to the specific expert testimony, jury members spontaneously stated that they felt that the defense should have pleaded temporary insanity.

Whether the testimony is suggestive of a stereotype of a battered woman as "irrational and emotionally damaged" as Schneider (1986) implies needs to more thoroughly addressed in the future.

Differences Across the Experiments

Two forms of the testimony were investigated; expert testimony that merely presented the general research finding on battered women, and expert testimony that additionally provided an opinion about the particular defendant on trial. Depending upon whether the impact of the testimony was assessed on individuals or on deliberating groups of jurors, the results of the two experiments, which employed identical case material, lead to differential conclusions about the utilization of the testimony.

The most notable difference that occurred across the two experiments involved the influence of the general expert testimony. When individual jurors' verdicts and perceptions were assessed, this testimony had virtually no effect, and, in fact, responses on most measures were similar to the no expert control condition. In contrast, when deliberating groups of jurors were studied, the general expert condition appeared to be exerting the same influence as the specific expert testimony.

In so far as the findings of the present research are reliable, the two studies tend to suggest that individual jurors were unlikely to utilize the expert testimony that merely provided group probability data, but a group of deliberating jurors were likely to utilize this information. The former of these conclusions is consistent with the findings of previous research that has investigated the effects of expert testimony on juror decision making (Brekke & Borgida, 1988; Fox and Walters, 1986; Maass et. al, 1985). The latter conclusion, however, is inconsistent with the results of Brekke and Borgida's study that investigated the influence of rape trauma syndrome testimony on jurors' post-deliberation judgments. In discussing the differential findings of the present research, each of these issues will be addressed.

To what can the differences in utilization of the general expert testimony be attributed? In addition to the individual versus group focus, another methodological difference across the two studies must be addressed. Experiment I presented the trial in a written format, while Experiment II utilized an audio format. Could the mode of presentation

account for the divergent effects of the general expert testimony across the two experiments? Research findings comparing the effects of stimulus medium on juror performance would argue against this interpretation. Farmer and his colleagues (Framer, Williams, Cundick, Williams, Howell, Lee, & Rooker, 1977) have investigated jurors' perceptions of trial testimony as a function of four methods of presentation, two of which, audio versus written, are of particular relevance to the present case. On a wide range of measures (verdicts, evaluations of trial participants and trial proceedings), no differences across the two mediums were detected. Thus, although mode of presentation cannot be ruled out entirely as a possible explanation for the differential findings across the studies, it seems somewhat implausible.

Various explanations for the jurors' lack of utilization of the general expert information in Experiment I can be offered. One of the more compelling explanations is consistent with the findings the Maass et al. (1985) study on expert testimony pertaining to eyewitness identification. Recall that these researchers examined the influence of two dimensions of the expert testimony, the inclusion of causality in the testimony and sample- versus person-based testimony. They found that depending on the causality dimension, the person- and sample-based testimony had a differential impact on jurors' judgments. Specifically, the person-based testimony had a significantly greater impact, as compared to the sample-based testimony, when an explanation was offered for the eyewitness's potential unreliability. One explanation they proposed for their finding involved the notion of cognitive conflict. They postulated that the expert on eyewitness fallibility presents the jurors with information that conflicts with their own beliefs. To resolve this conflict, the juror must either revise his/her own beliefs or "discount the expert testimony as invalid or unrepresentative." The testimony, they argued, may be much easier to discount if it is based on "an independent sample of people." That is, the juror can view the testimony as unrepresentative of this particular eyewitness. If, on the other hand, the testimony is directly tied to the target person, such discounting is not so easy to achieve and the juror must

more critically evaluate the testimony for its reasonableness. "If the expert presents cogent causal theories for his...claim, the juror may be incapable of dismissing the testimony as invalid" (p. 226).

Consistent with this reasoning, the jurors in Experiment I who were exposed to the general expert, as compared to jurors exposed to the specific expert, felt that the battered woman syndrome applied less to the defendant on trial. In contrast, no differences in perceptions of the expert witness or support for the notion of battered woman syndrome were found between these two groups. Furthermore, it appeared that jurors in the general condition also tended to give greater weight to other trial testimony that was unfavorable to the defendant. As compared to jurors in the specific expert condition, they cited a greater proportion of reasons for their decisions that were unfavorable to the defendant's case.

A second explanation for the finding involves the impact that the differential cross-examination of the experts may have had on jurors' overall perceptions of each side's case strength. In the general expert condition, the expert was specifically questioned by the prosecution lawyer as to whether or not he had conducted an examination of the defendant, whereas the specific expert was not. This additional cross-examination may have weakened the overall effectiveness of the defense, while strengthening the prosecution's case. Some support for this hypothesis can be found on subjects' ratings of the two attorneys. Subjects exposed to the specific expert rated the defense attorney as more persuasive than did subjects exposed to the general expert. The opposite effect was found on their ratings of the persuasiveness of the prosecution lawyer.

Finally, it is possible that the additional opinion information provided by the specific expert (i.e., that the woman fit the "classic" case of the battered woman syndrome) may have led jurors in this condition to believe that the defendant was more severely abused than did jurors in the general expert testimony condition. If so, these differential perceptions of abuse were possibly responsible for the effects of the testimony at the individual level. This explanation would suggest that the testimony did not necessarily provide jurors with a novel

framework for understanding the defendant's beliefs and actions, but rather altered the extent to which the implications of a battering relationship were applicable to the defendant. Some support, albeit weak, for this explanation was found in the data. Recall that jurors' ratings on the item assessing the extent to which the defendant was abused on a regular basis were higher in the specific expert testimony condition than in the remaining two conditions ($\underline{M}$ = 7.28 v. $\underline{M}$'s = 6.39 & 6.33, no expert and general expert conditions, respectively). Although, this difference did not reach statistical significance, it does tend to suggest that jurors in the specific expert testimony condition were more likely to view the defendant as having been subjected to physical abuse.

The explanations discussed thus far, however, apply only to individuals, not to deliberating groups of jurors, and complete understanding necessitates an adequate account of what occurred at the jury level. Further, it is necessary to address why the processes operating at the group level may have eliminated the factors postulated for the lack of utilization at the individual level.

As discussed in the introduction to Experiment II, jury decisions do not just reflect an averaging of the group members' initial verdict preferences. Rather, the final verdict also reflects a shared understanding of the case facts, much of which is attained through the information exchange that occurs during the jury's deliberations. As a collectivity, the group pieces together an account of what occurred, and this may cause the jury members to reevaluate their initial or tentative preferences for a particular verdict. Thus, it was suggested that the expert testimony, even in its general form, may have influenced the jury's performance by altering the jurors' consideration of the trial testimony. It presented jurors with another perspective that could be raised in their discussions. This could potentially result in more elaborate processing of the testimony, which, in turn, could result in greater integration of the expert information with the other trial testimony about the defendant.

There is some evidence in the data to suggest that the expert testimony (both general and specific) did alter the consideration of the trial evidence, although it was not

overwhelming. Using measures of time spent on particular issues, jury members in the no expert condition appeared to spend more time raising interpretations that were unfavorable to the defendant's version of what occurred. In contrast, when jury members in the two experimental conditions discussed these issues, they spent a greater amount of time raising issues that were favorable to the defendant's claim. Examination of jurors' explicit use of the expert testimony also indicated that the testimony was employed by the jurors to address problematic issues about the defendant's beliefs and actions.

These findings suggest that there may have been more favorable elaboration of the testimony (both the expert testimony and the testimony relating to the defendant's beliefs and behaviors) by the jury members in the expert conditions. On jurors' assessments of the applicability of the expert testimony, no differences were detected between the general and the specific expert conditions. Thus, it is possible that this greater elaboration of the general testimony that occurred through jurors' discussions resulted in their finding the battered woman syndrome applicable to the defendant on trial. In addition, the differential evaluation of the persuasiveness of the two attorneys that were found for the specific expert condition in Experiment I were also not detected in Experiment II. Jury members did not question that fact that the general expert did not provide an opinion about the defendant on trial. Thus, their overall evaluations of the attorneys may not have been affected.

One notable difference across the two experiments involved the extent to which jurors were likely to believe that the defendant had suffered abuse. There was a suggestion that jurors' perceptions of abuse were increased by the presence of the specific expert testimony in Experiment I. In Experiment II there was a general tendency for jury members in the expert conditions (general or specific) to indicate that the defendant was likely to have been abused, both on a regular basis and on the morning of the incident. Since the expert in the general condition did not provide an opinion about whether the defendant on trial suffered from the battered woman syndrome, it suggests that this effect was not due to the experts' opinion, but rather to the jurors' discussions. Consistent with this interpretation,

when jurors in the expert testimony conditions were discussing the abuse suffered by the defendant, they were less likely to question it in comparison to jurors in the no expert control condition.

The relative merits of these alternative explanations for what occurred across the studies will need to be addressed in future research. The question also arises as to why these effects for the more general form of the testimony did not occur in the Brekke and Borgida study? Recall that these researchers had examined two forms of testimony pertaining to rape trauma syndrome on both individuals' initial verdict preferences and their post deliberation judgments. Unless the testimony provided a hypothetical example explicitly linking the information to the defendant on trial, it had no impact on initial verdicts. Further, the jurors' deliberations did not enhance the utilization of the more general form of the testimony. Of course the present research differs from this study on a number of dimensions such as the type of trial, the topic domain of the testimony, and the issues the testimony addresses. These differences do not, however, provide a psychologically satisfying explanation for the differential utilization of the general expert testimony across the two lines of research.

Some potential answers may lie in the differential methodologies employed in the studies. Brekke and Borgida instructed their juror's to take a straw vote before beginning their deliberations. If the jurors were in agreement from the beginning they did not engage in deliberations (unfortunately Brekke and Borgida do not report the number of jury groups in which this occurred[1]). For those juries that deliberated, deliberations were terminated after thirty minutes and declared at deadlock (the number of juries that did not reach agreement was also not reported). In natural settings, however, juries do not necessarily approach their task by taking an initial vote.

The psychological literature on group decision making suggests that normative

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1. Given that some jurors engaged in deliberations and some did not, this presents a confound in their post deliberation measures.

pressures are typically enhanced when judgments are made in public (Kaplan & Miller, 1983). Although the initial verdicts elicited in the Brekke and Borgida study were made privately by the jurors, the assigned foreperson of the jury was instructed to examine the verdicts before beginning any discussion to determine if the deliberation was in fact necessary. Thus, it is possible that this method may have increased the salience of normative influential pressures and/or reduced the potential for the operation of informational processes of persuasion. There is some indirect evidence for this possibility.

For instance, Hastie and Pennington (1983) have found that only about one-third of the juries they studied started with an initial vote. Furthermore, juries that started with an initial vote, referred to as "verdict-driven" juries, were more likely to proceed in a differential pattern from juries that did not start with an initial vote (which Hastie and Pennington referred to as "evidence-driven" juries). What tends to occur in verdict driven-juries is that jurors divide into factions with those favoring one faction over another. The discussion that ensues is then organized by verdicts; "there is an 'adversarial' character to the discussion (Hastie & Pennington, in press). Hastie and Pennington (in press) also indicate that in verdict-driven jurors, there was less emphasis on the presentation of narratives concerning the events that occurred.

Thus, if the methodology employed by Brekke and Borgida affected the way in which jurors proceeded with their deliberations, specifically, if it decreased the likelihood that alternative narratives would be presented, the general testimony may not have been sufficiently elaborated upon by the jurors to result in its integration with the defendant's account of what occurred. The explanations provided for the differential effects of the general expert testimony across the two lines of research are, of course, only speculative. More definitive answers can only be found by future research that addresses these hypotheses directly. The findings of the thesis do, however, suggest that future work on the utilization of group probability data will need to be sensitive to the level of analysis (individual vs. group).

Limitations and Shortcoming of the Research

The applied significance of the findings are of course subject to the usual limitations and shortcoming that are raised regarding jury simulation research (e.g., Bray & Kerr, 1982; Vidmar, 1979; Weiten & Diamond, 1979). First of all, the representativeness of the sample to real jurors can certainly be challenged. University undergraduates are a relatively select group of young, typically middle-class, well educated, individuals. These attributes take on special significance when one considers that negative attitudes towards battered women have been found to be positively related to traditional views about sex-roles and negatively related to level of education (Gentlemann, 1986; Greenblat, 1985; Saunders et. al, 1987). Thus, these findings would suggest that a student population may be less in need of the information conveyed by the expert. This interpretation would certainly be consistent with the finding, in both experiments, that the presence of the testimony had no effect on measures tapping jurors' beliefs about battered women. Whether a more diverse sample would utilize the testimony, however, would also depend on the audience's receptively to the testimony. Only future research that uses a more heterogenous sample of potential jurors can provide adequate answers to these questions.

The value of the expert testimony and its impact in any particular case will also depend to some extent on the attributes of the actual case. The case after which the stimulus material was modeled involved a marital couple of relatively high socioeconomic status (the husband being a doctor). In a scenario study examining lay knowledge about battered women, Greene et al. (1989) found that respondents were more likely to express agreement with the research findings if those findings described a couple of low socioeconomic status. The impact of the testimony may thus be greater in the present instance since the defendant and her husband did not fit the traditional stereotype of marital couples in which battering occur. On the other hand, characteristics of the couple involved may interact with the jurors' receptively to the testimony. Whether similar effects would appear in other cases is a question that can only be answered by replicating the experiment

using different case materials.

The differential effects of the two presentational forms of the testimony also highlight the way in which aspects of the expert testimony can have important implications for its utilization by the jury. Other dimensions of the testimony such as its specific content, whether it is challenged by a counter expert, the perceived competence of the expert are all likely to influence how the testimony affects the decision process. Thus, before we can draw any generalizations about the testimony much more work needs to be done. For instance, upon completion of the present research, a recently published study, which examined factors influencing jurors' verdict decisions in homicide trials involving battered women, was uncovered (Follingstad, Poleck, Hause, Deaton, Bulger, & Conway, 1989). One of the variables assessed in this study was the presence of expert testimony on the battered woman syndrome. No effects for the testimony on jurors' decisions were found. The study suffers, however, from a number of methodological flaws and it is difficult to draw any conclusions from this research.

Finally, in retrospect, it appears that a more sophisticated coding scheme that incorporates more fine-grained analyses of the interpretations raised, as well as more dynamic aspects of the discussion would significantly improve the ability to detect the mechanisms underlying the effects of the testimony. The measures used for jurors' considerations of the trial testimony did not take account of either the number or the persuasiveness of the interpretations that were raised. As the qualitative analyses conducted on jurors' explicit use of the expert testimony suggest, the testimony may exert its influence in more subtle ways. Future research will need to examine the discussion of the expert testimony in terms of its contextual use and persuasive power.

Implications for General Theory

The primary purpose of this research was to address a legally relevant problem. The investigation, however, was guided by a current psychological model of juror decision making and the findings offer some contributions to our understanding of both jury, and

small group, decision making more generally. The results of the first experiment provide further support for the explanation based model of jury decision making developed by Pennington and Hastie (1986). In Experiment I the presence of the specific expert testimony altered the interpretations that jurors were likely to cast on the defendant's behaviors; these, in turn, were predictive of the verdicts they rendered. Thus, verdicts rendered by jurors were related to their construction of the trial testimony (as measured by the believability of the defendant's account index), and a variable (the presence of specific expert testimony) that altered jurors' interpretations influenced final verdicts via its mediating effect on these interpretations. As predicted, verdict category understanding was not systematically related to the verdicts rendered.

The results of the second experiment are suggestive of similar processes operating at the jury level. Using a measure of the jury group's shared understanding of the trial testimony (average members' responses on the believability of the defendant's account index) it was found that this shared understanding about the defendant's beliefs and actions was highly related to the verdict the jury rendered. As in Experiment I, jurors' representations of the verdict alternatives were not related to verdict choice, thus suggesting that it was the groups' differential construction of the trial information and not their differential understanding of the verdict alternatives that were predictive of verdict choice. At present, jury decision making models have not been derived from, or applied to, individual juror decision making models (Davis, Bray, & Holt, 1977). The findings of Experiment II tend to indicate that the Story Model, which has been developed to understand individual juror decision making, may potentially provide an integrative model for jury behavior.

The findings also have some implications for psychological theory more generally. The results of Experiment I, which focused on individual responses, were consistent with prior research in social cognition on the utilization of group probability data. This research has shown that unless the connection between the base rate information about groups is made fairly explicit to the specific individual to which it applies, people are unlikely to utilize

the information (Bar-Hillel, 1980; Borgida & Brekke, 1981; Brekke & Borgida, 1988). The differential findings from the two studies on the utilization of the general expert testimony, however, also highlight the importance of examining group's, as opposed to individuals', utilization of group based data. Aspects of group decision making may facilitate this process, and if so, the mechanisms underlying this effect are worthy of further exploration.

On a related note, Experiment II emphasizes the importance of investigating the process of social influence that occurs in group interactions. Group decisions do not merely involve an averaging of the individual members' preferences. A greater understanding of the factors influencing this process would help strengthen the speculative explanations offered for the differential findings between Brekke and Borgida's (1988) research and the present research. The process by which group consensus or a shared understanding of the issues among members is obtained is an area of research much in need of attention. Some recent trends in this direction are evident, for instance, Hastie and Pennington's (in press) work on deliberation style, Stasser, Taylor, and Hanna's (1989) work on the effects of shared and unshared information exchange in the group. This renewed interest in the group as a functioning unit is reminiscent of Lewin and his students' (1951, 1953) seminal work on group processes, and this return to a group dynamics orientation in group research signifies a promising direction for the future.

Concluding Remarks

To return once again to the main focus of the thesis, the findings of the present research suggest that the presence of expert testimony about the battered woman syndrome does have an effect on the jurors' perceptions of the defendant's claim of self defense. It led jurors to interpret the defendant's beliefs and actions as more reasonable responses to her situation. Whether the effects of the testimony on the decision process evidenced in the present research enhance the jurors' function, however, is not only an empirical question, but also one of competing perspectives and values. The present research, however, provides some data around which these normative issues can be debated.

The results of the study are certainly not suggestive of expert testimony about the battered woman syndrome overwhelming the jury decision process. It did not occupy a major proportion of the deliberations as some critics of expert testimony have suggested (see Monahan & Walker, 1986). Nor did jurors seem to "blindly" accept the expert's testimony. These findings are consistent with those in other content domains of expert social science testimony such as eyewitness unreliability and rape trauma syndrome.

The results of the two studies reported suggest a number of research avenues to be pursued, such as: what are the psychological mechanisms responsible for the differential effects of the general expert testimony at the individual and jury level? Does the testimony provide jurors with unique information? Does it lead to interpretations that are consistent with the reasonableness of the woman's actions or with loss of control? How might the presence of the testimony interact with characteristics of the defendant? It seems obvious that more research investigating the effects of this testimony on jury behavior is called for, but it is hoped that the present research has laid out some fruitful directions for pursuing these issues.

APPENDIX A

The case of Regina v. Thomas

Arraignment of the Accused

Judge: Defense counsel, are you ready to proceed?

Defense: Yes, your Lordship.

Judge: Court clerk, would you please arraign the accused.

Clerk: Carolyn Thomas stands charged that she on or about September 23rd, 1986, at the township of Metropolitian Toronto in the judicial district of York did kill one Roy Thomas and did therefore commit second degree murder contrary to the provisions of section 218 of the Canadian Criminal Code. On this charge how do you plead, Mrs. Thomas, guilty or not guilty?

Mrs. Thomas: Not guilty.

Judge's Instructions

Ladies and gentlemen of the jury, we will now begin the case of Regina v. Thomas. Mrs. Carolyn Thomas has been charged with the crime of murder in the second degree. The Crown has brought the charge of murder against Mrs. Thomas and has the burden of proving that charge beyond a reasonable doubt. It is your duty to listen to all the evidence, to decide the facts, and then to apply the law as I the trial judge will give it to you at the end of the trial.

The case will begin with the opening statements from both the prosecution and the defense attorneys. Each will tell you what they expect to prove. These statements are not evidence, though, they are only a summary to help you follow the case.

The prosecution will then call witnesses for the Crown. After the prosecution has finished questioning a witness, counsel for the accused will be allowed to question the same witness. After all the witnesses for the prosecution have been heard, the accused's attorney may choose to present witnesses on the accused's behalf.

Once all the evidence has been heard, the lawyers will each get a chance to discuss the merits of their positions. The accused's lawyer will go first and then the Crown will follow. Again, these arguments are not evidence, and are to be accepted or rejected as you see fit.

Crown's Opening Statement

Your lordship, members of the jury, my name is Jim Barrnett and I'm prosecuting this case. The accused, Carolyn Thomas, as your Lordship has told you, has been charged by the Crown with second degree murder of her husband, Roy Thomas. We intend to prove to you today that Mrs. Thomas is guilty of this charge. Now you'll hear a lot of evidence and your role, members of the jury, is to weigh that evidence. At the end of the day if you still have a reasonable doubt about her guilt, you must acquit her, but members of the jury, that doubt will not arise today. We will prove to you, beyond any reasonable doubt, that the accused did intend to cause an injury to Roy Thomas that she knew was likely to cause death, and as that is so, I will ask you to convict the accused.

Now, counsel for the accused will try to convince you that this was an act of self defense, that the accused committed this act because she feared for her life. But we will prove to you that this was not the case. This was not an act of self defense. She shot her husband two times, once in the abdomen and once again at pointblank range in the head with a .38 calibre revolver. The accused does not deny this. Members of the jury, we will prove to you that this was not a situation of self defence, but rather a malicious murder.

You'll hear from the police officer in charge of the investigation, who will tell you Carolyn Thomas admitted to shooting her husband and when first questioned provided no explanation, no claim of self defense for shooting her husband.

You'll hear from Elizabeth Simner, the deceased's former

secretary, who actually overheard the gun shots from an adjoining room and also heard Mr. Thomas plead with his wife not to shoot him.

And you will hear testimony from a forensic pathologist who performed an autopsy on the body of Roy Thomas. This killing was no accident; Roy Thomas received a fatal gunshot to the head from close range.

Finally, you'll hear from the deceased's mother. She will tell you that Roy Thomas was a hard-working family doctor and a good father and husband.

Members of the jury, we will prove to you that on the morning in question Mrs. Carolyn Thomas shot her husband with the intent of inflicting an injury that was likely to result in death. I don't presume to instruct you on the law, that is for your Lordship to do, but suffice it to say that the intent to kill or inflict injury that is likely to result in death warrants a guilty verdict of second degree murder. And this is the verdict I will ask you to return at the end of the day. Thank you.

Defence's Opening Statement

Your Lordship, ladies and gentlemen of the jury, my name is Robert Gilman and I'm representing Mrs. Thomas. Let me first tell you that Carolyn Thomas does not deny shooting her husband. Although by law she is not required to testify, she'll take the witness box and tell you what happened in her own words. Members of the jury, Mrs. Thomas did not have a very happy marriage, but we don't plan to stand here today and tell you that this is an excuse for killing Roy Thomas. The facts of the matter are, that this marriage was more than just an unhappy one, it was also a terrifying marriage; a marriage in which Carolyn Thomas came to fear for her life and safety. Members of the jury, Roy Thomas was a violent man and had a history of beating his wife. Mrs. Thomas will tell you about the numerous times he beat her. And you'll also hear from the examining physician, who examined Mrs. Thomas shortly after the shooting took place, who will tell you that Mrs. Thomas had suffered severe physical injuries that morning.

[General and Specific Expert Testimony]

You'll also hear from a psychologist and research expert, Dr. David Wilson, an expert in the area of "battered women" who will testify about the common reactions of women in similar situations as Mrs. Thomas. He will explain to you the effects that an extended period of psychological and physical abuse has on a woman and he'll tell you about the psychological reactions of women who are victims of violent assault in their relationships. [Specific expert only: He'll tell you that he examined Carolyn Thomas, and that she exhibits symptoms characteristic of women who have been subjected to domestic

violence.]

[All Conditions]

Ladies and gentlemen of the jury, on the morning of the 23rd of September, Roy Thomas began to violently beat his wife for absolutely no reason at all. He threatened her while pointing a gun in her face. Carolyn Thomas, fearing for her life, and having no other alternatives grabbed her husband's gun to protect herself. Members of the jury, she shot her husband, but this act was one of self defense. Unfortunately, yes unfortunately, this tragic incident resulted in death, but members of the jury, I put it to you, that was not her intention.

Our evidence will show that based on the past history of these people and upon the circumstances surrounding the case, Carolyn Thomas, fearing for her life and unable to escape from their home setting, struck out against Roy Thomas in self defence. While it is always tragic when a death occurs, the law does not hold one responsible for a death if it was committed with a reasonable fear of physical harm; if that person acted in fear of their own life. We'll prove to you today that this is exactly what happened on the day of the 23rd. Ladies and gentlemen of the jury, it is very important that you take your role seriously. And if you have a reasonable doubt as to Carolyn Thomas's guilt, it is your duty to acquit her. After you have heard all the evidence today, I assure you, members of the jury, that there will be more than just a reasonable doubt raised in your minds. Thank you.

Direct Examination of Sergeant Wright

Judge: The Crown may begin its case.

Crown (C): Please state your name and occupation for the court?

Sergeant Wright (W): My name is Richard Wright and I'm a police officer, a sergeant with Toronto's Metropolitain Police Force, 52 division, homicide squad.

C: How long have you been a member of the homicide squad?

W: Seven years.

C: On September 23rd did you have occassion to become involved in an investigation into the death of Roy Thomas?

W: Yes. At approximately 9:10 A.M. I was dispatched to 743 Kenora Cresent. I was informed that a shooting had taken place at this address. I arrived at the scene at approximately 9:16.

C: What did you observe upon your arrival?

W: When we arrived we found a woman in a chair holding a young child. In the adjoining room, an office, a man was lying on the floor, surrounded by a pool of blood. A .38 revolver was on the floor in the office by the doorway.

C: Could you identify this woman for us?

W: Yes, it is the accused, Carolyn Thomas, sitting over there.

C: And the victim, who was he?

W: The accused's husband, Dr. Roy Thomas - a family doctor. He worked a private practice from his home - the room we found him in being his main office.

C: And was he dead upon your arrival?

W: No, however, he was pronounced dead upon arrival at the hospital.

C: And could you tell us, was the victim armed, Sergeant?

W: No, he was not. No weapon was found on him.

C: And when you found Mr. Thomas where was he lying?

W: He was in front of the desk. Between the desk and the door, the office door leading into the hall of the house.

C: And did the accused make any statement at this point?

W: Yes she did.

C: My lord, it is my understanding that the defense does not object to the admission of the statements made by the accused.

J: Defense counsel, is that correct?

D: Yes my lord, the defense admits the voluntariness of the statements made by the accused - a voire dire will not be necessary.

J: Thank you. Carry on.

C: Sergeant Wright, can you tell us if the accused said anything to you about the death of her husband at this time?

W: She said she shot him and then remained silent, she was very unresponsive to questioning.

C: Did the accused indicate whether her husband had attempted to attack her?

W: No she did not, not at this time.

C: Not at this time? Does that mean that she told you at a later time?

W: Yes, that's right. On the second day of questioning she told us that she believed that her husband was going to kill her and that's why she shot him.

C: But she made no reference to this fact when she was first questioned, is that correct?

W: That's correct.

C: Sergeant, can you tell us what you observed about the accused's emotional state when you arrived at the scene on the 23rd of September.

W: She appeared very calm. She was quiet, did not appear to be upset or in fact exhibit any emotional responses whatsoever.

C: Now Sergeant Wright, I am holding a gun in a sealed and marked package. Have you seen this gun before?

W: Yes this is the gun that was found on the floor of the office.

C: My lord, I would like to enter this gun as Exhibit #1.

J: The gun will be entered as exhibit 1 in the proceedings.

C: Now, Sergeant, did you at any time have this gun analyzed for fingerprints?

W: Yes, I did.

C: What were the results of the analysis?

W: The finger prints of Mrs. Thomas were positively identified on the weapon. As well, the lab was also able to make a positive idenification of the victim's fingerprints on the weapon.

C: And did your anaylses also reveal the number of shots that were fired from the gun?

W: Yes. The results of the lab indicated three expended shells in the weapon. It had been fully loaded before these had been fired.

C: Now, two bullets were found in the body of Mr. Thomas. Did your investigation reveal the destination of the third bullet?

W: Yes, it had been fired through the inside bottom of the bedroom door on the third floor, the Thomases bedroom.

C: That's all. Thank-you very much Sergeant.

Cross Examination c Sergeant Wright

Defense: Now, two of your officers took the accused to Sunnybrooke Hospital for an examination that afternoon; what's the reason for that Sergeant?

W: There were some bruises on the woman. She appeared to have sustained some injury, so we took her to the hospital to be examined. Its fairly routine standard procedure.

D: You mean standard procedure when a person looks like they suffered some physical violence, don't you?

W: Yes, that's right.

D: So it was your opinion that the accused had suffered sufficient injuries to warrant a hospital investigation?

W: Well, it is routine to take people to the hospital when it appears that they've suffered any kind of injury. It's not unusual to find some injury after a struggle has taken place.

D: Thank you, I have no further questions.

Direct Examination of Mrs. Simner

Crown (C): Would you please state your name, your occupation, and where you are presently employed?

Mrs. Simner (S): My name is Elizabeth Simner and I'm a medical secretary. I now work for Dr. Paster in Toronto.

C: Were you employed by Mr. Roy Thomas at the time of his death?

S: Yes. I was.

C: And in what capacity were you employed?

S: I was his secretary, medical secretary.

C: How long were you employed by Mr. Thomas? That is, during what period of time did you work for him?

S: For about a year and a half, I started working for him in '85, in January and I worked for him until the day he died.

C: And could you tell us what it was like to work for Mr. Thomas? How would you characterize your relationship with him?

S: I enjoyed working for him. He was always very professional, very organized. I never really had any problems. He treated me really good so I had no complaints.

C: Did Mr. Thomas ever become angry or violent with you?

S: Oh no.

C: And what about the accused? Did you have much opportunity to interact with her?

S: I never saw too much of her, she didn't come to the office.

C: And how would you describe your relationship with the accused?

S: When I did see her she was always very nice to me.

C: On any of the occasions that you did see the accused, did she ever

appear to have any bruises or injuries?

S: Not that I ever saw.

C: And were there any occasions in which you witnessed the Thomases fighting or arguing?

S: No, nothing out of the ordinary.

C: Mrs. Simner, you were working the morning of September 23rd, that is, the morning that Mr. Thomas was shot, were you not?

S: Yes. I had just come in...it was 9 o'clock, I always started at 9 on Tuesdays.

C: And did you see Mr. Thomas?

S: Yes, he let me in when I came. I think he was on his way upstairs.

C: Mrs. Simner, could you please look at this diagram marked Exhibit #2. It's a layout of the bottom floor of the Thomas' house. Now, Mrs. Simner, which door did Mr. Thomas let you in?

S: He let me in the front door to the house. I always came in that way. Then I'd go through the doctor's office and down the hall to the reception area, over here.

C: So after Mr. Thomas le. you in the office, he went up stairs?

S: Yes.

C: And then what took place?

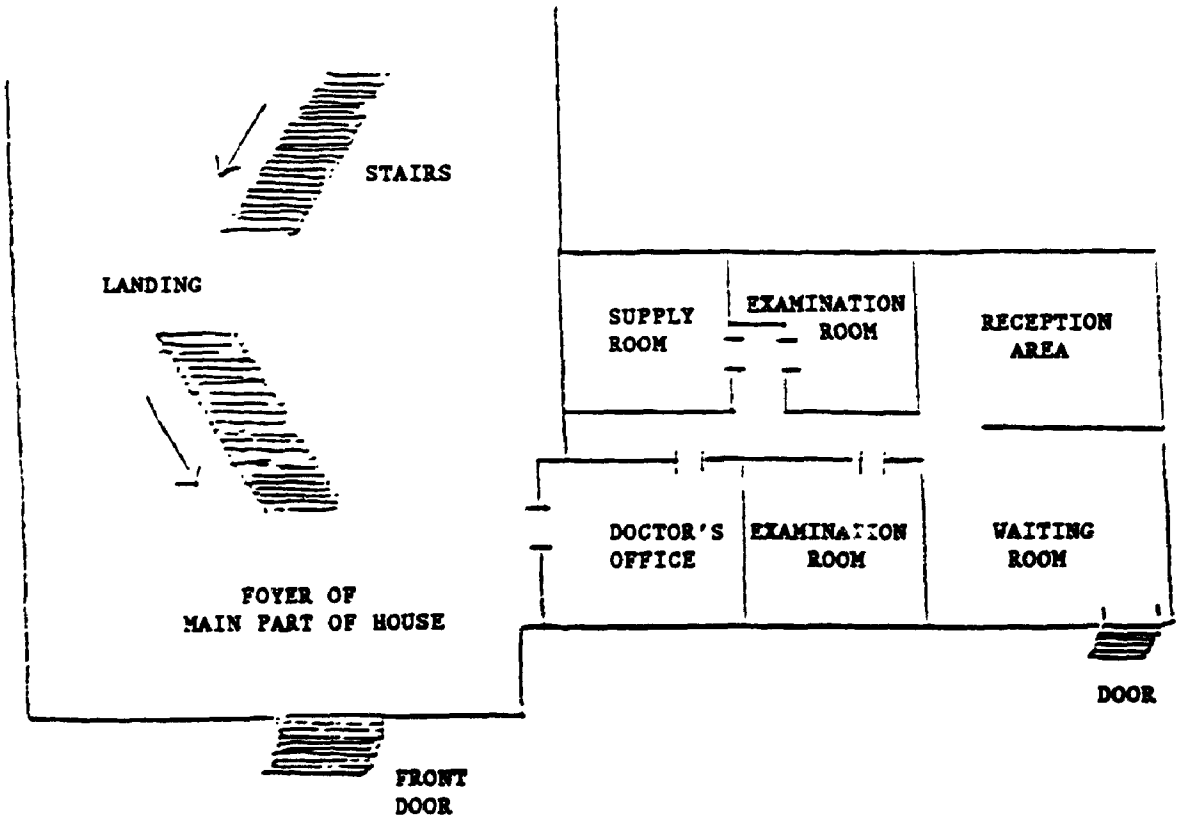
S: I was just at the supply room, over here, that's where I kept my coat - I was just about to take my coat off and then I heard a shot - a bang.

C: About how long after you saw Mr. Thomas did you hear this shot?

S: Not very long after, I'd say it was a few seconds after - about 10 seconds at most.

C: And where did this shot come from, Mrs. Simner?

EXHIBIT #2


STAIRS
LANDING
SUPPLY ROOM
EXAMINATION ROOM
RECEPTION AREA
DOCTOR'S OFFICE
EXAMINATION ROOM
WAITING ROOM
FOYER OF MAIN PART OF HOUSE
DOOR
FRONT DOOR

S: It sounded like it came from upstairs.

C: Okay. And what did you hear after you heard this shot?

S: I heard a sorta thumping noise, as if someone were falling downstairs. Then I heard the words, "Carol, don't shoot me", and then I heard a second shot.

C: What did you do at this point?

S: I didn't know what to do. I was scared, my heart was beating so fast. I backed up to the waiting room - and to the door that went outside and then I heard the doctor call my name, very quietly.

C: Did you hear the accused at any time during this event?

S: Just about when I got to the door I heard her say "I am not going to leave you". Then I heard a third shot.

C: And after you heard this third shot what did you do?

S: I ran out, so I ran to the house next door and called the police.

C: So, in total you heard three shots then, is that right?

S: Yes.

C: And after the first shot you heard thumping as if someone were falling down stairs, is that correct?

S: That's right and then I heard the other two shots.

C: Thank-you Mrs. Simner, I have no further questions for you.

Cross Examination of Mrs. Simner

Defense (D): Now, Mrs. Simner, on the morning of the 23rd of September you saw Mr. Thomas when you came in and then 10 seconds later you heard a shot, is that right?

S: Yes.

D: So I take it then that you were wearing a stop watch?

S: No of course not. I said it was about 10 seconds. That's about how long it seemed.

D: Then it could have been a bit longer, could it?

S: Maybe...but not much. It happened really fast. It was literally a matter o seconds. I didn't even have a chance to take my coat off.

D: Fine. Now, you also said you heard Mr. Thomas say "Carol, don't shoot me". Could you tell us again where you were when you heard this?

S: I was at the supply room.

D: Now, according to this layout of the Thomas' house there was the doctor's office between you and the main part of the house where the words were spoken?

S: Yes.

D: Well, Mrs. Simner, you must have very good ears to hear through all those barriers. Tell me, could you usually hear conversations that took place in the doctor's office when you were at the suppy room?

S: No, but the door was usually closed.

D: And was the door closed on this occassion?

S: The office door to the main house was open, partialy open, and the other door to the office was partly open.

D: Well tell us, what about conversations, or even arguments, that took

place in the main part of the house? Could you usually overhear these?

S: Well, I don't know, like I said the doors were usually shut.

D: Just answer the question, Mrs. Simner.

S: Not usually.

D: Thank-you, Mrs. Simner. I have no further questions.

Direct Examination of Dr. Silverman

Crown (C): Please state your name and occupation for us?

Doctor Silverman (DR): Yes, my name is Dr. Silverman and I'm Chief pathologist at the Toronto Forensic Centre here in the city of Toronto.

C: How long have you held this position, Dr. Silverman?

DR: I've been with the Forensic Centre for the past ten years.

C: And where did you receive your initial training, doctor?

DR: I received my medical degree at Queen's University in Kingston, Ontario. I then specialized in forensic pathology in Kingston for another three years. Then I did a two year residency in forensic pathology at the Forensic Centre in Kingson - during this time I specialized in ballistics, bullet related injuries.

C: Okay, Dr. Silverman, now did you have an opportunity to examine the body of Roy Thomas?

DR: Yes I did.

C: And could you tell the court what you found, doctor?

DR: I removed two bullets from the deceased. Both bullets came from a .38 caliber revolver. One was lodged in the deceased's abdomen. The other had struck the deceased in the forehead. No other damage to the body was visible.

C: In you opinion Doctor, would the gunshot wound to the abdomen alone have been enough to kill the deceased?

DR: I cannot say with absolute certainty, but given its location in the body, it is unlikely that it would have resulted in death if he had received prompt medical attention.

C: Prompt medical attention, what do you mean by that?

DR: Well the major concern here would be blood loss and damage to organs. If the blood loss could be controlled, a person would stand a good chance of making it. At least for a few hours. The autopsy showed no irremedial damage to organs. The bullet had brushed the intestines and then became lodged in the back muscles.

C: What about the bullet wound in the head?

DR: That on the other hand was a fatal wound. It caused extensive damage. Survival after sustaining an injury of that nature would be nothing less than a medical miracle.

C: Doctor, could you estimate the distance at which these shots were fired from?

DR: Based on their depth, the way in which they were embedded in the body, I would say they were fired from close range, which could be anywhere from five to ten feet from the victim.

C: And which shot was fired first, could you determine that from your examination?

DR: It would be difficult, if not impossible, to determine which bullet struck the victim first.

C: But tell me doctor, would it have been possible for Mr. Thomas to still move around after either of those two gunshot wounds?

DR: Well in my opinion, it is almost certain the wound to the head would be immediately fatal. As I said, that was a fatal blow. The bullet in the abdomen, that's a different story. It would not have such an immediate and devastating effect. He could have been able to move to some extent, but not too much.

C: I just have one final question for you doctor, were the bullets you removed from Mr. Roy's body fired from the revolver marked exhibit #1?

DR: The bullets removed from Mr. Thomas' body were consistent with the type of bullets ordinarily shot by that particular revolver.

C: From you examination of the revolver, would you say its at all likely that the revolver could have discharged accidentally?

DR: No the firing mechanism was working properly, and therefore the normal amount of force would have to have been used to discharge the firearm. I think it is highly unlikely that the firearm could have shot accidentally, without a substantial amount of force exerted on the trigger mechanism.

C: Thank-you doctor. I have no further questions.

Cross Examination of Dr. Silverman

Defense (D): I just have a few questions for you Doctor. Now, you said the shot to the abdomen would not be immediately fatal, is that right?

DR: Yes, that's correct.

D: So after Mr. Thomas was shot in the abdomen, he could still have descended a set of stairs, is that possible Doctor?

DR: Yes...it would be possible.

D: Now Doctor, would there necessarily be a substantial presence of blood immediately following the shot to the abdomen?

DR: Of course the wound would bleed, but the amount of immediate blood loss would be hard to determine. There would certainty be blood loss.

D: Doctor, you have testified that the shots were fired at close range, from perhaps 5 to 10 feet?

DR: That is correct.

D: And your examination of the location of the bullets confirms that the victim was shot by someone facing him - he was not shot in the back, that is?

DR: That is correct.

D: And your findings would not be inconsistent with my suggestion that the victim was coming towards Mrs. Thomas when the revolver was fired?

DR: Well, given the close range of the firing, no, that would not be inconsistent, though not necessarily the case.

D: I have no further questions. Thank-you.

Direct Examination of Mrs. Thomas

Crown (C): Please state your name and occupation for the court.

Mrs. Thomas (T): My name is Casandra Thomas and I'm now retired. I used to work as a filing clerk though.

C: And in what way are you related to the accused, Mrs. Carolyn Thomas?

T: I am her mother-in-law. Roy was my son.

C: Mrs. Thomas, I'd like you to tell us a bit about the relationship between your son and his wife, the accused.

T: Roy was always very good to Carolyn. He always did his best to make her happy. The main reason they moved to Toronto was for her. She didn't like it in Edmonton.

C: And when did you move to Toronto, Mrs. Thomas?

T: About a year after they did. I'm a widow, so I decided to move out to be closer to them.

C: And how often did you see your son and his wife?

T: Oh, quite regularily. A couple of times a month.

C: Mrs. Thomas, was Roy a good husband and father?

T: Oh yes, he was always a good provider and a loving father. He worked really hard to give them everything he could. As a Doctor, he had to work such long and hard hours, but he never complained about this; he said he loved his work.

C: Would you characterize your son as a violent man?

T: No he certainly wasn't violent. Roy was a gentle man. He couldn't hurt anyone.

C: I just want to clarify this issue, Mrs. Thomas. To your knowledge, did your son ever ever strike or beat the accused?

T: No he never did. I'm sure of that.

C: Thank-you Mrs. Thomas.

Cross Examination of Mrs. Thomas

D: Mrs. Thomas, did you approve of your son's marriage to Carolyn?

T: Well, I thought he was too young. That he should wait.

D: Don't you mean you thought that he should wait for someone else? Wasn't it Carolyn Thomas that you didn't approve of?

T: It was Roy's choice. I always told him he should do whatever made him happy.

D: Thank-you, Mrs. Thomas. That will be all.

C: We have no further questions to call, Your Lordship. We have no further witnesses, Your Lordship.

Judge: Ladies and gentlemen of the jury, now that the prosecution has finished its case, the defense will present its case. Defense councel, you may call your first witness.

[Expert Witness Conditions Only - General & Specific]

Direct Examination of Dr. Wilson

D: Your name is Dr. David Wilson?

DR: Yes, that's right.

D: Dr. Wilson, can you please tell us what your occupation is and where you're presently employed?

DR: Certainly. I am a licensed clinical psychologist at McGill Universtiy in the psychology department. As well, since about 1980 I've also held a joint faculty appointment at the Medical School at the University. In addition to this, I also operate a private practice, Wilson & Associates, in Montreal.

D: Would you briefly outline your educational background and employment history for us?

DR: Well, I received my bachelor's degree in psychology from McGill University. I then received my M.A. as well as my Ph.D. in clinical psychology from Rutgers, the State Universtiy of New Jersy. After receiving my Ph.D., I went to Harvard for two years, where I received training in community psychology, specializing in counselling and treatment of battered women. Then I returned to Canada and joined the faculty in the Department of Psychology at McGill University. Three years later, I was cross-appointed to the Medical School where I also teach.

D: Between the time you came to Montreal and today's date, could you briefly tell us what you have done?

DR: For the first few years, I taught and did research mostly on the psychological reactions of women who are victims of violent assault.

I've taught and counselled in the area of wife abuse, and in 1979, I opened a private practice - this provided me with an opportunity to further evaluate and treat a number of battered women. So basically throughout this time, I've been involved in research and counselling for battered wowen.

D: So, doctor, your area of specialization is battered women?

DR: Yes, that's right.

D: Dr. Wilson, are you a member of any professional organizations?

DR: Yes. I am a member of both the Canadian and American Psychological Associations.

D: Have you ever published in any scientific or professional journals?

DR: Yes, about 30-40 different publications, in journal articles and some book chapters. There have also been numerous invited addresses, convention presentations, and workshops that I organized.

D: Thank-you Dr. Wilson. Okay, could you now tell us a little about the history of research and theory on physical abuse and on what its aftereffects are? That is, could you briefly trace the development of your area of expertise?

DR: Certainly. Over the past few decades, there has been an increased awareness of the frequency with which women are subject to domestic violence. We are now learning that the problem is far more pervasive - and more terrible - than it was ever thought to be. Statistics indicate that spousal violence occurs in about 15% of North American marriages. As the problem of battered women has begun to receive more attention, social scientists have begun to focus on the effects of sustained or persistent patterns of physical and psychological abuse on its victim. Much of the early research attempted to document the

social causes of violence in the family, that is, the factors that generate or cause domestic violence against women, and it wasn't until about ten years ago that the study of battered victims and the aftereffects of the violent experiences on the victims themselves began to flourish.

The first large scale study of the effects of domestic violence, from the perceptions of the battered women that is, was conducted by a professor of psychology in Colorado, Dr. Lenore Walker. In an initial study, she examined 110 battered women - focussing on the effects that an extended period of psychological and physical abuse has on a woman. She followed this up with a three year long study in which she evaluated over 400 battered women. On the basis of extensive psychological testing and intensive interviews with these women, she found that women who are subject to such abuse commonly experience a particular set of emotional and psychological reactions. She called these set of symptoms or reactions the Battered Woman Syndrome.

D: Could you describe this Battered Woman Syndrome for us Doctor?

DR: Most battered women share certain personality characteristics which increase the likelihood of their becoming trapped in a violent relationship. These women tend to have very low self esteem, they also tend to have very traditional beliefs about the home, about the family, and about male and female sex roles. They also have tremendous feelings of guilt....feeling that their marriage is failing; they have tremendous feelings of guilt about this. They have a tendency to accept responsibility for the batterer's actions. Furthermore, traditional wives tend to view the success of their marriages as a reflection of their worth as human beings. Most of these factors

increase the likelihood of their becoming "trapped" in a violent relationship.

D: Could you elaborate on that for us Doctor?

DR: Well, to do that I'll need to explain the battering cycle in some detail. The Battered Woman Syndrome describes a psychological phenomenon that has three distinct phases. That is, relationships characterized by physical abuse tend to develop battering cycles, and the violent behavior directed at the woman occurs in three distinct and repetitive stages that can vary in length and intensity. During the first stage or what is referred to as the "tension-building stage," the battering male engages in minor battering incidents and verbal abuse - a lot of bickering goes on at this point. The woman is paralyzed by fear and tension, and she trys to appease, or to be as passive as possible in an attempt to reduce the violence. At some point during this phase, the tension between the battered woman and the batterer becomes intolerable and more extreme, more serious, violence follows. The batterer explodes into an uncontrollable and violent rage. This is phase two or the "acute battering incident". The woman at this point experiences a sense of powerlessness to do anything to stop her husband. The primary emotion of the battered woman is fear. She becomes increasingly afraid for her own well being.

D: What do you mean fear, could you elaborate?

DR: Typically, victims of the battered woman syndrome believe that their husbands are capable of killing them, and that there is no escape, that if they leave they will be found and be hurt even more.

D: Why do they feel there is no escape, Doctor?

Dr: Well, that brings us to the final stage of the battering cycle.

Finally, there is a temporary lull, a stopping of the physical abuse. During this period, the man will become very sorry, very caring. He will plea for forgiveness. He will be extremely affectionate and will make promises to never beat the woman again. This is a period of relative calm, and it may last as long as several months, but in a battering relationship, the affection of the man will eventually fade, and phase one of the cycle will start again.

This cyclical nature of the relationship, as I've described it to you, has a profound effect on the woman, socially and psychologically. It helps to explain why many women simply do not leave their abusers.

D: Could you elaborate on that for us doctor? Why does the woman not just leave the relationship?

DR: For one thing, the loving behavior during the third phase of the battering cycle reinforces whatever hopes these women might have for the partner's reform. It keeps them believing in the relationship. In addition to this hope, the impact of the extended period of violence further pressures the women to remain in the relationship. The woman becomes so demoralized and degraded by the fact that she cannot control or predict the violence that she sinks to a psychological paralysis - a "learned helplessness" we say in psychology. Let me describe this psychological phenomenon to you in a little more detail.

Learned helplessness is a well known psychological phenomenon that was discovered by a noted psychologist, Dr. Martin Seligman. Basically, what Seligman and his colleagues found was that laboratory dogs - dogs they used in their experiments - who were repeatedly subjected to shock over which they had no control, learned that they were helpless, that they could do nothing to stop the shocks - after a

while, the dogs began to put up no resistance to the shocks. When the situation was changed, and the dogs were given an opportunity to escape, the dogs failed to respond - they remained helpless. This phenomenon has been generalized, that is, it has been successfully applied to explain some forms of depression in humans. The theory has also been applied to the battered woman's situation. Let's look at how it works here. The woman first attempts to control the violence, but her inability to control it eventually produces learned helplessness and depression. She is reduced to a state of fear and anxiety during the first two phases of the cycle - this perception of danger extends beyond the time of the actual beating itself. It is something of a "cumulative terror" that consumes the woman. It keeps her in constant fear of harm.

The repeated battering - just like the electrical shocks with the dogs - diminishes or reduces the woman's motivation, her ability to respond. She becomes trapped in the situation.

D: So, then would this effect, this learned helplessness have any effect on the woman's ability to leave the relationship?

DR: Yes, exactly, as a result of the uncontrolable beatings, she finally reaches a point where she cannot leave the relationship. She is psychologically paralysed. Numbed by the dread of imminent violence. Feelings of fear plague these women and leave them open to a psychological paralysis that hinders their ability to break free or seek help. These women are unable to think clearly about means of escape. I should also stress that this emotional paralysis, if you will, is often reinforced by the woman's traditional beliefs about the home and family and by the woman's false hopes that things will improve

- as I mentioned earlier, these false hopes are reinforced by the brief periods of relative calm that follow the battering incident. They are lured into staying by the hope that things will get better.

D: So, it is not that easy for these women to just pick up and leave then?

DR: No, contrary to popular belief, these women do not stay because they are masochistic, that they they like or derive some pleasure from it. If you'll permit me to repeat myself, it arises out of a combination of factors including a lack of any place to go, a state of "learned helplessnss", a fear that if found by her husband she will be subjected to even more violence, a hope that things will change, and an attachment to the traditional values of the family.

D: Doctor, are these women in some way responsible for the beatings they receive?

DR: That is also a common belief. That battered women provoke their husbands, that they push the man beyond the breaking point. We often hear things like "she was to bossy" or "too pushy" or "too sloppy". But the literature indicates that this is just not the case. Batterers lose control because of their own internal reasons, not because of what the woman does or does not do.

D: Is it likely that a woman falling within the battered woman syndrome would report the physical violence to the police or family?

Dr: Well, there are well documented findings on that matter. Women suffering from the battered woman syndrome fail to report the abuse; a battered woman's self-respect is usually very low and she believes she is a worthless person. She is typically unwilling to reach out and confide in friends, family, the police, either out of shame,

humiliation, or feelings that she will not be believed. She becomes very isolated from other family members and friends and so typically has nowhere to turn to. She also fears that by speaking out, she may only anger her husband more and in essence worsen the situation.

D: Doctor, since this original research, has there been further work done in the area?

DR: Oh yes, definitely. Walker of course has continued her work in the area, but many others, including myself, are now researching this area as well.

D: And what has this research revealed?

DR: The more recent work has, by and large, supported the original findings. There is now a fairly large volume of literature documenting the reactions of battered women.

D: How widely recognized is this phenomenon?

DR: Although there is certainly some variation in the duration or length of the phases of the cycle, the phenomenon is clearly recognized and identifiable. There are currently a number of books and scientific journal articles specifically devoted to explicating these findings.

[Specific Expert Only]

D: Dr. Wilson, did you examine the accused, Carolyn Thomas?

DR: Yes, I did.

D: Based on your examination, could you render an opinion as to whether Carolyn Thomas was suffering from battered woman syndrome?

DR: Yes, in my professional opinion, her behavior and her personality certainly corresponds to that of a woman suffering from battered woman syndrome.

D: Consistent with battered woman syndrome?

DR: Mrs. Thomas was a classic case of the battered woman. She exhibited many of the traits associated with prolonged domestic abuse and based on extensive tests and interviews with Carolyn Thomas I would conclude that she was a battered woman and subject to battered woman syndrome.

[General & Specific Expert]

D: Thank-you very much, Doctor. That will be all.

Cross Examination of Dr. Wilson

[General & Specific Expert]

C: Dr. Wilson, as a clinical psychologist, you will probably agree with me that human behavior is not perfectly predictable?

DR: Well, yes, that's correct.

C: Different people will respond in different ways to the same set of circumstances, would you agree?

DR: There is always some variation in people's reactions.

C: So, it follows that not everyone who is a victim of an assault reacts in the same manner?

DR: Well there are patterns...

C: But you can't say that everyone who has been assaulted will exhibit identical responses?

DR: Of course not, they will not be identical, but as I said there are often identifiable patterns that appear in a number of cases.

C: But, is it true not everyone who is a battered woman will exhibit the symptoms of bat' a.man's syndrome?

DR: In the overwhelming of majority of cases, this syndrome will be manifest in a woman who has been subject to domestic violence over a peri.d of time.

C: But you cannot state with certainty that absolutely every woman in that situation will respond this way?

DR: No.

C: Furthermore, it follows from your testimony that a woman who is not a battered woman will not experience battered woman's syndrome. Since those symptoms flow from the violence, a woman who was not battered

wouldn't have these symptoms?

DR: Well, this particular set of symptoms is unique to a situation where a woman is subjected to abuse, not to other situations.

[General Expert Only]

C: You have not at any time examined the accused, have you, Dr. Wilson?

DR: No.

C: Today is in fact the first time you have ever seen the accused, is that correct?

DR: Yes.

C: You have absolutely no idea if the accused was ever battered by her husband prior to his death, do you Doctor?

DR: No, I don't.

C: You cannot give any opinion at all as to whether the accused was at the time she killed her husband suffering from battered woman's syndrome?

DR: Well, I have not done a professional examination of the accused, so, no. I am not here to give that sort of conclusion.

[General & Specific Expert]

C: I have no further questions for you Doctor.

Direct Examination of Dr. Richardson

Defense (D): Could you please state you name, occupation and present place of employment for the court?

Doctor Richardson (DR): My name is Dr. Richardson and I am a physician on staff at Sunnybrook Hospital in Toronto.

D: Doctor, I'll go directly to the matter at hand. On the afternoon of September 23rd, 1986, did you conduct an examination of a woman named Carolyn Thomas at Sunnybrook Hospital?

DR: Yes, I did. At approximately 2:00 p.m. she was brought into emergency by two police officers.

D: Can you tell the court what you noticed during that examination?

DR: From the physical examination I performed, I noticed a bruise on the woman's left temporal region, the left side of the head, about 2-3 inches in length. There were also three large abrasions on her arms and thighs. There was no other evidence of trama to the body.

D: Doctor, could you tell us what you mean by abrasions?

DR: Well, when the body sustains a severe blow, the skin itself is abrated or rubbed off.

D: So these were severe blows, then?

DR: Yes.

D: And did Mrs. Thomas give you a history of what happened that morning?

DR: She told me that her husband had tried to kill her that morning.

D: Thank-you, Doctor. I have no more questions of the witness.

J: The Crown may proceed.

Cross Examination of Dr. Richardson

Crown (C): Dr. Richardson, you said you noticed a bruise on the left side of the temple, is that right?

DR: The temporal region, yes, it was approximately 2 to 3 inches in length.

C: And some bruises to the accused's arms and thigh?

DR: Yes.

C: Were there any signs of blood or any other injuries to Mrs. Thomas?

DR: No, my examination revealed no open wounds.

C: What about any broken bones, or any internal damage to the accused? Did your examination reveal anything of that nature?

DR: No, no other damage was apparent.

C: So, other than what you described, there were no other signs of physical abuse suffered by the patient?

DR: No there were not.

C: What about any old wounds or scars, did you notice anything unusual?

DR: No.

C: Doctor, did records indicate that Mrs. Thomas had been admitted before for similar types of injuries?

DR: No, not according to our records.

C: All right. Now, in this case, when you say the history that was given to you was that Mrs. Thomas' husband had tried to kill her, that's just what she told you, is that right?

DR: Yes, that's righ'

C: Thank-you, doctor. I have no further questions.

Direct examination or Mrs. Thomas

Defense (D): Could you please state you name and occupation for the court?

Mrs. Thomas (T): Carolyn Thomas and I am a housewife.

D: Mrs. Thomas, I'd like you to tell us about your relationship with Mr. Thomas? How would you characterize the relationship you had with him?

T: It was very rough a lot of the time. Roy had a really quick temper which he couldn't control. I mean, even though there were some good times - times when we didn't fight, there were lots of times when Roy would just blow up and get really violent and would hurt me.

D: How long were you married to Mr. Thomas?

T: Three and a half years. We got married in February of 1983.

D: Tell us a little bit about how you first met Mr. Thomas.

T: I met Roy when I was working as a registered nurse in the prenatal care unit at St. Mary's Hospital, in Edmonton. He was a resident in pediatrics at the time. After dating for a couple of months, we got married. Things were so wonderful when we met. I'd never been so happy in my life. Shortly after we got married, we moved to Toronto so he could finish off his residency at Sick Children's Hospital.

D: And did you continue to work while you were in Toronto?

T: Yes, at first I did. I worked as a private duty nurse for my first year there, till Cathy was born, my little girl. Then I stayed home to look after Cathy. After his residency was over, Roy decided that he wanted to start up his private practice out of our home, so there was lots for me to do. We converted two of the rooms on the main floor

into a storage room and an office and had an extention built on to the house for the examination rooms and the waiting room.

D: Did you assist your husband with this work, that is, did you help him establish his private practice?

T: Oh, yes. Roy was still putting in full hours at the hospital so I had to do most of the work in setting it up.

D: How would you describe your relationship with your husband?

T: Roy was quite violent. He used to beat me up quite a bit.

D: When did the first such incident take place?

T: After we moved to Toronto I invited a girlfriend of mine from Edmonton out for a visit. We'd just moved into our new house and I was really looking forward to seeing her. But after Linda left Roy got really obnoxious and rude to me. He started swearing and callin' me names. He called me a lesbian and ordered me to get out of the house. I pleaded with him to stop, I told him to leave me alone.

D: And did he leave you alone?

T: No he said "woman you better shut up." He was really mad. I think I got him mad because I spent most of my time with Linda and I didn't mean to, but I guess I wasn't spending much time with Roy.

D: What happened next?

T: He started throwing things - dishes, ashtrays, anything that was handy. Then all of a sudden without any warning he lunges at me, grabs me around the neck and starts choking me. He shook me and said, "Apologize, you bitch!" I was absolutely terrified. I tried to say "I'm sorry, I'm sorry", but I didn't have much breath left. I finally managed to get some kind of apology out, and then he threw me down on the couch and stormed out.

D: And what was Mr. Thomas's behavior like when he returned home?

T: Well, he showed up late that evening all sorry and tellin' me how he couldn't live without me, and how he'd never hit a woman before, and he would never do it again. And 'cept for that one time, he'd been mostly good to me. Anyway, he seemed so sincere. He lost a patient around that time. I figured, well, he's really upset because of that.

D: How long after the wedding did this incident take place?

T: About six months after we were married.

D: Were there ever any other incidents of violence?

T: Yes there were many.

D: How many?

T: I don't know. Lots of times I guess. In fact, just a few weeks after the first time, he attacked me again. We were sitting on the porch together, talking about something, well before you know it, Roy and me were into a big argument, it turned into a real shouting match. Then he pulled me off the chair by my legs onto the ground, the hard cement, I fell right down on the cement. Then he got on me and shoved his knee into my neck and started shouting things at me. I don't know what because I blacked out.

D: You lost consciousness?

T: Yes. I don't know how long I was out for. When I came to, I was on the couch in the livingroom.

D: Was anyone else present at the time that Mr. Thomas attacked you?

T: No.

D: Mrs. Thomas, what about Mr. Thomas, what was his behavior like towards you after he rendered you unconscious?

T: He was really, really, sorry. He said he didn't know what happened

to him, that he loved me, and he needed me. He said "I'll never never let anything like that happen again." He kept promising and begging me to forgive him. The next day he brought me flowers and he took me out to dinner. I thought things might be all right after all.

D: So this behavior of your husband following the incident, was that very typical of your husband after he beat you?

T: Yes, he would tell me he just didn't know what came over him - that he never intended to hurt me at all. I honestly didn't know what to think, but I did so want to believe. It sounds crazy now, but then I blamed myself for what was happening to me. I told myself that if I would only try harder to be better - be a better wife - that the beatings would stop. All during this period I was walking on eggs, doing everything I could to keep from irritating him so that he wouldn't get angry. But no matter what I did, he'd beat me every couple of months and then it was more often. He always said that he was sorry, and I always forgave him.

D: Mrs. Thomas, let's jump ahead a little bit in time. Could you tell the court what your relationship with your husband was like a few months before your husband's death?

T: That summer - August and September really - were pretty bad for me. Our relationship just got worse and worse. He started to call me names and would constantly criticize me, the way I kept the house, the way I looked, that I wasn't a good mother, everything I did. So I tried even harder, but nothing I ever did was good enough.

One time we were coming home from some friends of his in Barrie, and he was really mad at me cause of some joke I'd made about him in front of his friends. Well, all of a sudden he pulls the car over on

the shoulder of the highway and starts punching me in my side. Then he opened the door and pushed me out...right on the 400. I fell on the ground and could barely breathe my insides hurt so much. I felt sick to my stomach. Before I could even get up, he'd sped off. He just left me there.

D: Did the situation improve?

T: No, like I said, it just kept gettin' worse and worse. Twice in August he beat me black and blue. He punched me in the neck, and my head and face with his fists. One time my eye was so swollen I could barely open it. I was afraid to do anything. He was always mad.

D: Mrs. Thomas, what did your husband say to you during these incidents?

T: He would say horrible things to me, especially during the last few months. He would say that "Cathy probably wasn't his baby, she didn't look like him. Who's the real father?" That was completely ridicious. He knew I'd never been with anyone but him. I don't know what was wrong with him, he was so jealous. He would say if I ever tried to leave him or divorce him that he would fracture my skull. I had threatened to leave Roy before. He said he'd find me and kill me.

D: And did you believe him?

T: If I ever left, he woulda come after me, alright. He'd would of found me for sure. He made sure I wouldn't have any friends to go to. He wasn't that nice when I had friends over, I couldn't really invite anyone over. And if I went out for too long he didn't like it. I had Cathy to take care of. So I just stayed home most of the time taking care of her. So I didn't really have anyone to talk to.

T: Did you ever seek the help of the police?

D: No, I didn't. If I ever did, Roy would've only beat me more after they left. He once said if I ever called the police, he'd make sure I wouldn't talk again. I was too scared of what he'd do to me.

D: What about medical assistance, did you ever go to a doctor after a severe beating?

T: No I didn't.

D: Could you tell us why not, Mrs. Thomas?

T: Roy was a doctor. How could I go to a doctor for help? Roy said I wasn't going to ruin his career for him.

D: Mrs. Thomas, I'd like you to now tell the court about the events that took place on the morning of September 23rd.

T: Roy and I started to have an argument at breakfast. I was really rushed that morning...I had an appointment at the dentist's, so breakfast was late and, well, the eggs weren't cooked right - not the way Roy liked them anyway. Roy started getting really mad about this. Before I knew it, he was shouting and hollering at me. But he was getting madder and madder, the way he does before he really blows up. I was getting scared that he'd hit me and told him to please not hit me...that he'd promised he wouldn't hit me...But that got him even more mad, and he started callin' me all sorts of names, saying I was no good as a wife.

D: What happened next?

T: He started callin' me names and screaming, I started cryin...and pleading with him to stop. Then he hit me over the head with a magazine, and then he hit me some more with his fists...in the shoulders and the stomach. Then he started pulling at me - hard - and he dragged me up the stairs to the bedroom. He was really ranting and

raving now. I thought he was going to kill me. When we got to the door - the bedroom door - he threw me across the room and I fell into the night table. He was at the closet pulling things out - he was throwing boxes and anything he could grab at me. He pulled out a suitcase and threw it down at me. I was lying on the floor, crying and begging him to stop - he said I better be out of the house by 10:00. I kept begging for him to stop. I said I couldn't go. He started hitting me again, and again and he kicked me. He grabbed the hairbrush and hit me with that across the face. He kept yelling at me to get out. I kept saying no and pleading with him to stop. He was really wild - crazy looking. Then he took out the gun from the dresser and pointed it in my face and said "you are going to be out of here this morning one way or another." Then he stormed out of the room.

D: This brush that he hit you with, what was it made of?

T: It was a wooden brush.

D: And the gun that Mr. Thomas pointed at you, who did it belong to?

T: It was his. He brought a gun with him when we moved to Toronto. He kept it in the bedroom.

D: Was the gun loaded?

T: He always kept it loaded. We'd got broke into once in Edmonton, so Roy was always worried about it. He said he was going to be ready this time.

D: Now, after he left the room, what did you do?

T: My little girl, Cathy, she was in her room the whole time of the fight. She ran in, she was frighted to death. She was crying and so I was hugging her, telling her it would be alright. I got her to calm down. I waited a bit...just getting my breath...then I..

D: How long did you wait?

T: About an hour or so. Then I phoned Roy downstairs, in his office. I told him I was sorry and I asked him to be reasonable - that we could talk.

D: And what was his response to this?

T: He said he didn't want to argue any more. He told me to pack my things, to get out. Then he hung up.

D: And what happened after the phone call?

T: A couple of minutes later, I heard his office door downstairs...and he was coming up the stairs. He came storming in the bedroom and really started...he was punching me all over...then he pushed me against the night table. I saw he was looking over there on the night table, so I saw the pistol, and he looked like he was going for the pistol. I just picked it up. I shot it, just aiming at the floor, and I said, "just please get out of here, and please, please leave us alone."

(witness is crying)

And then he was backing out of the door, and he said, "you are going to get it now." And I heard him go down the steps, and so I hand my little girl s hand. I knew after I shot the gun, I had to get out of the house. I just knew he was going to kill me. So I had Cathy in my hand and we started to go down the steps real fast, and we got to the top - top of the first landing - he jumped back from the landing. I thought he had gone all the way down, but he'd been behind the wall on the landing. So I pulled my leg back, I pulled Cathy back, and we were next to the wall, and I just shot the gun. He backed up against the wall, and with his eyes still on my face, he went down the stairs,

jumping two at a time, and he kept looking back at me with his back to the wall, and on the way down the steps he said, "I am going to kill you, you dirty bitch."

He got to the bottom of the steps and he looked at me and he just went in the office, and I knew I had to get out.

(witness is crying)

I knew it. And I had my little girl by the hand. When we got down the stairs, she seemed like - well, when he got to the bottom of the steps, she thought we were supposed to follow him. She jumped like she was going in front, and she looks in the room and she says "daddy". And I looked in there and he was, he was just like he was waiting for me. He was waiting to get me. I shot in the room, and I turned to go out the front door, and after I turned my head I heard him fall. I heard him fall and I knew I had shot him.

D: Was this the first time you realized that you had shot your husband?

T: Yes.

D: Had you realized your husband was wounded from the gunshot you fired at the top of the stairs?

T: No, I didn't know I hit him. He was jumping down the stairs so fast. I shot the gun at the floor.

D: Why did you shot the gun again?

T: I just knew he was going to kill me, after I shot the gun, I just knew. When I looked in the room, I knew he was waiting for me. So I shot the gun. I was so scared, so scared he was going to do something to me, me or my little girl.

D: Now, Mrs. Thomas, when the police came did you speak to them?

T: Yes.

D: And what did you tell them?

T: I told them I shot my husband.

D: And did you tell them that you thought he was going to attack you?

T: No, not initially.

D: Could you tell us why, Mrs. Thomas?

T: I didn't tell the police at first because I thought Roy would be all right - I thought he was alive and maybe everything would be all right. I was very confused, mixed up about everything that just happened.

D: Thank you, Mrs. Thomas. I have no further questions.

Cross Examination of Mrs. Thomas

Crown (C): Mrs. Thomas, you claim your husband beat you on numerous occasions, is that correct?

T: Yes.

C: On any of those occasions would you say that you were ever severely beaten?

T: Yes, on most of them.

C: But you never required any medical treatment, is that right?

R: Roy wouldn't let me go. Any medical treatment I got was from him.

C: Don't you think the logical reaction of a woman who was truly frightened by her husband, let alone regularly brutalized by him, would be to call the police from time to time or to leave him?

T: No, you don't know what its like. No, I couldn't.

C: So during the time you were married, you never left Mr. Thomas?

T: No, I didn't.

C: And you never called the police either?

T: No, I didn't.

C: Why not? Wouldn't that have been the sensible thing to do, Mrs. Thomas?

T: He told me he would kill me if I ever called the police.

C: Did you ever tell any of your friends, or a family member for that matter, that your husband regularly beat you?

T: No. I didn't have any real friends I could tell, and I couldn't tell my family - we were never very close. My parents thought my life was perfect, they would have been too upset, too upset, if I ever told them what life with Roy was really like.

C: Seems to me, Mrs. Thomas, that if you were beaten as severely as you suggest you were that you would probably have told someone, don't you think?

T: I couldn't. I had no one to go to. I had nowhere to turn.

C: Well, why didn't you leave him, Mrs. Thomas, if things were so terrible?

T: I had threatened to leave him before. He said he would come after me. That he'd find me and smash my skull in when he did.

C: Well, didn't Mr. Thomas in fact ask you to leave on the morning you killed him?

T: He said he wanted me out.

C: Did he also tell you on that morning that he would come after you?

T: No, he didn't.

C: Then why didn't you just leave, Mrs. Thomas?

T: I guess, I don't know...I just had no where to go. I just wanted to talk to Roy...that's why I called him so we could talk. But he went crazy and came back to kill me.

C: And you waited an hour before you called him, is that right?

T: Yes, I wanted to talk to him.

C: Are you sure you didn't stay because you were afraid that you'd lose your home? your child maybe? is that why you wouldn't go?

T: No....

C: Isn't it true that you phoned your husband back to lure him back so you could ambush him, so that he couldn't make you leave?

T: No, I called him back to talk. I didn't want to fight.

C: Then why, Mrs. Thomas, did you shoot your husband repeatedly? Was a bullet wound to the stomach not enough to hold back his attack?

T: When Roy jumped out from the landing I was scared to death. I thought he'd gone down to the bottom. I knew he was going to do something to me, me or my little girl. And then after that first shot...I just wanted to scare him away...I shot it down. I didn't know it hit him. He was still jumping down the stairs and I didn't see any blood.

C: So, you shot your husband in the stomach and had no recognition of it, is that right?

T: Yes, I honestly didn't know.

C: And you'd also like us to believe that when you got to the bottom of the stairs and looked in the office at your husband you still didn't know?

T: When I looked in he was waiting for me...he was waiting for me, waiting to get me.

C: So you fired the gun again, this time at pointblank range right into his head?

(witness is crying)

T: I thought he was going to kill me. I held the gun up and fired not aiming at anything.

C: Had you not decided, Mrs. Thomas, that you'd suffered enough at the hands of your husband? That he was going to pay, pay with his life?

T: No, no.

C: Mrs. Thomas, you spoke to the police officers when they arrived, and told them that you had shot your husband, is that correct?

T: Yes.

C: You didn't say anything at that time to the police about your fear of your husband, or your belief that he was going to attack you?

T: No, not then.

C: It was only after some time had passed that you mentioned this to the police, is that right?

T: It was the next day I told them about it.

C: You contacted your lawyer on September 23rd, is that correct?

T: Yes.

C: And then on September 24th, after having received legal advice, you changed your story, and told the police that you acted in self defense?

T: I hadn't changed my story. My lawyer just told me to tell the truth, the whole story to the police. I was in shock after I shot Roy. I couldn't think clearly. I was able to tell the police the next day, that's when it really hit me, what had happened.

C: You mean when it really hit you that you were facing a murder charge and possibility a long prison sentence?

T: No, that's not true.

C: But from your conversation with you lawyer, you were made aware of the consequences of a murder conviction, you were made aware that you could be in prison for a very long time, Mrs. Thomas, unless you had some sort of defense?

T: That's not the way it was. He explained everything to me, but...he was very supportive. I was very upset...

C: Mrs. Thomas, it was only after you realized that self defense could keep you out of jail that you told the police this second story, isn't it?

T: No...its not...

C: Mrs. Thomas, your husband had a life insurance policy, did he not?

T: Yes.

C: And who was the beneficary to this policy?

T: If you're trying to suggest that...

C: Just answer the question, Mrs. Thomas. Who was the beneficary?

T: I was.

C: I have no further questions of the witness.

Defense: We have no futher witnesses to call, Your Lordship.

Judge: Thank you, counsel. Well, members of the jury, you have now heard all the evidence of the case. The two attoneys will now have a last chance to make some final, closing remarks to you. As I told you at the beginning of the trial, these closing statements are not evidence. After each attorney has made his closing statement, I will instruct you about the laws you are to apply in this case. The defense will begin.

Defence's Closing Statement

Your Lordship, ladies and gentlemen of the jury, my client has been charged with a very serious offense, and I ask you to carefully consider all the evidence before you come to your decision. Remember, the law tells you that the prosecution must prove the charge and it must prove it to you beyond a reasonable doubt. In this trial, the evidence rests primarily on the testimony of the various witnesses - and it is this testimony that you must carefully consider.

As you know, Mrs. Thomas did not have to testify in this case, but she did. She wanted to tell you in her own words what happened on the morning of September 23rd. Her testimony, as well as the testimony of other witnesses, point to a shooting that was committed in self-defence. The Thomases lived together in a stormy relationship for over three years. Throughout these years, Mrs. Thomas suffered repeated physical and psychological abuse at the hands of her husband. Roy Thomas was violent man.

On the morning of the shooting, Roy Thomas hit Carolyn Thomas in the head, dragged her upstairs, pulled out a suitcase, and told her to get out of the house. He hit her with a magazine, a hairbrush, and his fists. She testified that she took these blows to her head, thighs, and arms. The testimony of Dr. Richardson, the physician who examinined her that afternoon, confirmed the existence of these injuries.

Before Mr. Thomas went downstairs, he pointed a revolver at her head and threatened her. She called him to talk things over, to be reasonable about the matter. But he returned to the bedroom only to

resume his attack. He pushed her toward the bureau where he had left the gun. Thinking that he was going to grab the gun, she picked it up and fired a shot to scare him. After he left the room, she attempted to escape with her daugher, but he jumped out at them, and fearing for her life, she fired the gun. He backed down the stairs and into his office. As she passed that room, she saw her husband who was about to attack her and she fired a final shot to protect herself and her daughter. Members of the jury, because of her intimate and long-term familiarity with his history of violence, she was convinced at the time of the shooting that she was in serious danger.

You may ask yourself, why did she not leave earlier; why did she stay in such a relationship? She had nowhere to go, no friends, no family to turn to - Roy Thomas made sure of that. On top of that, he would plead with her to forgive him - that it would never happen again. And when that didn't work, he would threaten to kill her if she called anyone for help or if she left him.

[General and Specific Expert Conditions]

Remember also what Dr. Wilson, an expert on the subject of "battered women" told you. Mrs. Thomas' reactions are common to woman who have been subjected to psychological and physical abuse [Specific Condition only: and in his opinion she was a battered woman and suffered from the battered woman syndrome.] The cyclical nature of the battering cycle that her husband subjected her to reduced her to a state of perpetual fear and rendered her unable to escape from the situation.

[All conditions]

Ladies and gentlemen of the jury, I submit to you that the Crown

has failed to prove her guilt; and I ask that you give my client, Carolyn Thomas, the benefit of doubt and find her not guilty by reason of self-defense. Thank-you.

Crown's Closing Statement

Your Lordship, members of the jury. Let's admit that the Thomases may not have had the greatest relationship, but does that give someone the right to murder? - not under our system of law, not as it stands today. The Crown has proven beyond a reasonable doubt that Mrs. Thomas shot her husband, not in self defence, not to protect herself as the defense would like you to believe, but because she wanted to injure him, because she intended to cause an injury that would kill him. Threatened with the prospect of being thrown out of her home, she decided that she had endured enough and so she killed him. Roy Thomas didn't want to fight. When she called him on the phone he said he'd "had enough and didn't want to argue further". He said he didn't want to argue, remember that. She says he came back to the bedroom and began to attack her. But the testimony of Mrs. Simner, the doctor's secretary, indicated that only a few seconds had elapsed between the time Mrs. Simner saw the doctor and the time she heard the first gun shot; only a few seconds, members of the jury. That doesn't leave much time for an attack, now does it?

Realizing that he wanted her out, and that he meant it, she shot the gun at him, but she missed him and hit the door. Mr. Thomas, realizing his wife's intentions, began to hurry down the stairs - jumping down as fast as he could. She then followed him down the stairs, and shot him again. When she got downstairs she looked in the office and seeing him still standing she shot him in the head at point blank range making sure he wouldn't make her leave. Mrs. Simner overheard what went on. She heard Roy Thomas plead with his wife not

to shoot him. What threat was he posing to Mrs. Thomas? A man already shot, already wounded. She says she was certain that her husband was going to attack her; yet, she didn't mention this to the police when they arrived. She'd like you to believe that she didn't tell the police because she thought he would be all right. That's not why she didn't tell them; she didn't tell them, members of the jury, because she only concocted the story up after she realized the grave consequences of her actions. It is implausible that Carolyn Thomas perceived herself in imminent danger on September 23rd. She could have walked out the front door instead of firing that gun.

Members of the jury, maybe Carolyn Thomas did not have the happiest home life, but whose fault is that? And that is no excuse to kill. She could have left. I submit to you that the account of her relationship with her husband was greatly overdrawn. Were Mr. Thomas here with us today, he would have had an opportunity to tell us a somewhat different story. Her account of their life was not consistent with the testimony of her mother-in-law or with the testimony of Mrs. Simner, a women employed in the house. Moreover, the logical reaction of a woman who was truly frightened, let alone routinely attacked, by her husband, would be to call the police or to leave. Yet she never took any of these actions. Her story is just plain implausible.

[General Expert Condition]

And what about Dr. Wilson's testimony of this so called "battered woman syndrome". This expert did not examine the accused. He couldn't indicate if the accused was suffering from it. While his evidence was interesting it could be of little use to you today.

[Specific Expert Condition]

And what about Dr. Wilson's testimony of this so called "battered woman syndrome." Not every woman in the situations that he described will respond the same way? While his evidence was interesting it could be of little use to you today.

[All Conditions]

Members of the jury, the Crown must prove the accused guilty, and I submit to you, and members of the jury, that we have done that. Thank-you.

Judge's Final Instructions

Members of the jury, all the evidence in this case has now been presented, and the time has come for me to instruct you about the rules of law that you must apply in arriving at your verdict. I'd like to first tell you that it is not your task to judge or question these laws. Regardless of any opinion you may have about what you think the law ought to be, it is your duty to base your verdict upon the view of the law as I give it to you.

The accused, Carolyn Thomas, has been charged with the crime of second degree murder, but you actually have three verdict alternatives: murder in the second degree, manslaughter, and not guilty by reason of self-defense. You may have some preconceived notions about what these verdicts entail from television or the movies. I ask you to set these aside. I will define the elements of these verdicts for you. These definitions are crucial to determining which verdict you should return, so make sure you understand them. Mrs. Thomas has admitted that she killed Roy Thomas, so you are instructed that the first element of all of these verdicts has been proven. However, each of them has other elements that must be met.

Murder in the second degree is a killing with malice aforethought. It is a deliberate act. Although it includes feelings of ill will, it is also more than that. It means that the person intended to cause death or intended to inflict an injury that was likely to result in death. In order to infer the accused's intentions you must look at all the surrounding circumstances - including the use of a deadly weapon.

The second verdict option you have is manslaughter. This is culpable homicide that is not murder. It is a killing which results from the heat of passion caused by a sudden provocation or sudden combat. Provocation requires that an act be of such a nature that an ordinary person would be deprived of the power of self control. In addition, the accused's action must be committed on the sudden and before there was time for the passion to cool.

Your final verdict alternative is self defence. If you find that the killing was in self defence, then the accused is not guilty of a crime and should be found "not guilty". The right to self defence arises from a th' -at to one's life. So, you must determine whether the accused had a reasonable apprehension of death or great bodily harm. But you must also decide more than this. As the law has developed over many years, this right does not come into existence until the accused has exhausted all reasonable means to escape from the confrontation. And the force one uses to defend oneself can only be reasonable, but you must make this judgement with some consideration for the frailties of human impulses in a stress situation. So, if you find that the accused did not have a reasonable fear of great bodily harm or did not exhaust all reasonable means of escape or used more than reasonable force to protect herself, then self defence does not apply and the accused is guilty of at least manslaughter. Although the accused has raised the issue of self defense, it is not the accused who must prove that self defence applies. Rather, the burden is on the prosecution to prove it was not a situation of self defence.

Now there are certain rules and laws that you must follow in coming to your decision about whether Mrs. Thomas is guilty or not

guilty. The first principle is what we refer to as the presumption of innocence. Under our system, of law the accused is presumed innocent and does not have to prove her innocence to you. In fact, the accused is not required by law to produce any evidence at all. It is the Crown's job to prove that she committed the offense charged against her, and the accused cannot be convicted unless each and every essential element of the offense charged has been established by the evidence, and you are satisfied of her guilt beyond a reasonable doubt. Few things in life are absolutely certain. To say that you believe something beyond a reasonable doubt is to say that you are confident in your judgement, but it does not require you to be absolutely certain. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense—the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing nature that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs - in their own life decisions. If, after careful scrutiny and impartial consideration of all the evidence in this case, you feel that you have a reasonable doubt as to the guilt of Mrs. Thomas, then you must find her "not guilty" of second degree murder and consider the other verdict options. But if you find that the Crown has proven all the elements of the crime and there is not a reasonable doubt in your mind, then it is your duty to find her "guilty of murder in the second degree".

Now, as I stressed to you before the trial started, the only evidence you are to consider is the testimony of the witnesses that you heard. You must remember that the arguments and conclusions of the

lawyers are their opinions and are not to be considered by you as actual evidence in this case.

It is your duty as the jury to decide the weight and credibility of the evidence; this is not an easy job, and there are no fast rules to guide you in this task. Remember, the only evidence you are to consider is the testimony of the witnesses. To help you determine the believability and weight of the testimony, you can and should consider the following things: the witnesses' ability and opportunity to see and hear and know the things about which they testified, the witnesses' ability to recall and describe the events, the witnesses' interest in the outcome of the case or any type of bias they may have, the reasonableness of the witnesses' testimony in light of all the other evidence that was presented.

The weight you give to the evidence presented by each side does not necessarily depend on the number of witnesses that testified on one side or the other. You must consider all the evidence in the case. You are the sole judge of the facts. And to these facts you must apply the law as I gave it to you. Thank-you for listening so attentively. You may now begin your deliberations.

APPENDIX B

Dependent Measures - Study I

It is now time for you to render a decision in this case. As the judge outlined to you, you will have to decide among the three verdict alternatives. That is, you have to find Mrs. Thomas either: a) guilty of second degree murder, or b) guilty of manslaughter, or c) not guilty by reason of self defense. The judge's charge will be left with you while you think about what decision to render. Your task is complex, so take your time and think about it carefully. Once you have come to a decision please turn the page and answer the questions on the pages that follow. If you have any problems or do not understand a specific question, please feel free to ask the Experimenter to clarify things for you.

1. What is your verdict in this case? (please indicate by checking the verdict you choose).

   _____ guilty of second degree murder
   _____ guilty of manslaughter
   _____ not guilty by reason of self defense

2. How certain are you about this decision? Please indicate by circling the appropriate number on the nine-point scale presented below (1=not at all certain, 9=completely certain).

   not at all certain 1 2 3 4 5 6 7 8 9 completely certain

3. Please list below, the pieces of evidence that you feel influenced your verdict.

4. Now, please rank order in terms of importance (1 = most important, 2 = 2nd most important, and so on) the various pieces of evidence you have listed above.

In this section of the questionnaire you will be asked about various aspects of the case. Please read each item carefully and then circle the number on the nine-point case that best reflects your opinion about the question. Please be sure to examine the endpoints of the scales following the items since they are different for each item.

1. To what extent do you think Mrs. Thomas feared for her life on the morning of the crime in question?

did not fear 1 2 3 4 5 6 7 8 9 extremely fearful

2. To what extent do you think that the secretary's time estimate of when the shooting took place was accurate?

not at all accurate 1 2 3 4 5 6 7 8 9 completely accurate

3. To what extent do you think Mrs. Thomas could of left the house on the morning of the crime instead of shooting her husband?

not at all capable of leaving 1 2 3 4 5 6 7 8 9 completely capable of leaving

4. Do you think Mrs. Thomas intended to inflict an injury on her husband that she knew was likely to result in death?

not at all likely 1 2 3 4 5 6 7 8 9 extremely likely

5. To what extent do you think Mrs. Thomas's life was in danger on the morning of the crime in question?

not at all in danger 1 2 3 4 5 6 7 8 9 extremely in danger

6. To what extent do you think the secretary was telling the truth on the witness stand?

not at all truthful 1 2 3 4 5 6 7 8 9 completely truthful

7. How well do you think the secretary could hear what occurred between Mr. and Mrs. Thomas on the morning of the crime in question?

could not hear at all 1 2 3 4 5 6 7 8 9 heard very well

8. How likely do you think it is that Mrs. Thomas was physically abused by her husband on a regular basis?

not at all likely 1 2 3 4 5 6 7 8 9 extremely likely

9. To what extent do you think Mrs. Thomas thought her life was in danger on the morning of the crime in question?

not at all in danger 1 2 3 4 5 6 7 8 9 extremely in danger

10. To what extent do you think the doctor's mother was telling the truth on the witness stand?

not at all truthful 1 2 3 4 5 6 7 8 9 completely truthful

11. On Mr. Thomas's return to the bedroom, how likely do you think it is that he began to attack his wife?

not at all likely 1 2 3 4 5 6 7 8 9 extremely likely

12. To what extent do you think Mrs. Thomas's actions on the morning of the crime in question were under her control?

not at all under her control 1 2 3 4 5 6 7 8 9 completely under her control

13. How likely do you think it is that Mrs. Thomas believed that the force that she used against her husband was necessary to prevent injury or death to herself?

not at all likely 1 2 3 4 5 6 7 8 9 extremely likely

14. To what extent do you think Mrs. Thomas was trapped in her relationship, that is, she was unable to leave?

not at all trapped 1 2 3 4 5 6 7 8 9 extremely trapped

15. How severely, if at all, do you think Mrs. Thomas was beaten by her husband on the morning of the crime in question?

not at all beaten 1 2 3 4 5 6 7 8 9 very severely beaten

16. To what extent do you think Mrs. Thomas was telling the truth on the witness stand?

not at all truthful 1 2 3 4 5 6 7 8 9 completely truthful

(No Expert Testimony Condition)

In your opinion, how believable was the testimony of each of the following witnesses? (circle the appropriate number on the scale, 1=Not at All Believable, 9=Completely Believable)

	Not at All Believable								Completely Believable
Sergeant Wright (police officer)	1	2	3	4	5	6	7	8	9
Elizabeth Simner (deceased's secretary)	1	2	3	4	5	6	7	8	9
Dr. Silverman (forensic pathologist/ballistics)	1	2	3	4	5	6	7	8	9
Casandra Thomas (deceased's mother)	1	2	3	4	5	6	7	8	9
Dr. Richardson (physician who examined the accused)	1	2	3	4	5	6	7	8	9
Carolyn Thomas (accused)	1	2	3	4	5	6	7	8	9

Please rate each of the lawyers in the case on the scales provided below.

Crown Attorney

competent :____:____:____:____:____:____:____: incompetent

convincing :____:____:____:____:____:____:____: unconvincing

not effective :____:____:____:____:____:____:____: effective

Defense Attorney
(Carolyn Thomas's lawyer)

competent :____:____:____:____:____:____:____: incompetent

convincing :____:____:____:____:____:____:____: unconvincing

not effective :____:____:____:____:____:____:____: effective

(Expert Testimony Conditions)

In your opinion, how believable was the testimony of each of the following witnesses? (circle the appropriate number on the scale. 1=Not at All Believable, 9=Completely Believable)

	Not at All Believable								Completely Believable
Sergeant Wright (police officer)	1	2	3	4	5	6	7	8	9
Elizabeth Simner (deceased's secretary)	1	2	3	4	5	6	7	8	9
Dr. Silverman (forensic pathologist/ballistics)	1	2	3	4	5	6	7	8	9
Casandra Thomas (deceased's mother)	1	2	3	4	5	6	7	8	9
Dr. Wilson (expert on battered women)	1	2	3	4	5	6	7	8	9
Dr. Richardson (physician who examined the accused)	1	2	3	4	5	6	7	8	9
Carolyn Thomas (accused)	1	2	3	4	5	6	7	8	9

Please rate each of the lawyers in the case on the scales provided below.

Crown Attorney

competent :____:____:____:____:____:____:____: incompetent

convincing :____:____:____:____:____:____:____: unconvincing

not effective :____:____:____:____:____:____:____: effective

Defense Attorney
(Carolyn Thomas's lawyer)

competent :____:____:____:____:____:____:____: incompetent

convincing :____:____:____:____:____:____:____: unconvincing

not effective :____:____:____:____:____:____:____: effective

We would like you tell us in your own words what each of the verdict options in this case entail. That is, what constitutes second degree murder, what constitutes manslaugher, and what constitutes not guilty by reason of self defense? Below each of the verdict alternatives please outline what a lawyer must prove to satisfy a juror that the act in fact constitutes the verdict alternative. Be sure to state each of the elements that a lawyer must prove for each verdict option. In your opinion, how do the facts of this case apply to each of the elements that you outlined. Describe briefly why or why not they apply.

Second degree murder

Manslaughter

Not guilty by reason of Self Defense

To answer the questions in this section, indicate the degree of your AGREEMENT or DISAGREEMENT with a given statement by placing a number from -3 to +3 next to the item using the following scale:

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE
-3	-2	-1	0	+1	+2	+3

___ Women who are subjected to psychological and physical abuse tend to have low self-esteem.

___ Because battered women live in fear, they cannot think clearly about leaving the violent situation.

___ The type of man who beats his wife will do so regardless of what his wife does or does not do.

___ Wife abuse is more pervasive in families that are poor.

___ A woman will move out of the house if her husband beats her severely.

___ A husband is sometimes justified in hitting his wife.

___ In general, men who beat their wives tend to have lower levels of education.

___ Some women seem to get pleasure from being beaten up by their husband.

___ If a man hits his wife, she probably did something to deserve it.

___ A man who hits his wife could still be a loving husband.

___ Any sensible woman would end a relationship where she was subjected to physical violence.

___ A woman that refuses to leave a husband that beats her, gets what she deserves.

What percentage of battered women do you think will report to the police that they have been subjected to physical abuse at the hands of their husband? (please circle the appropriate response on the scale below)

ALMOST ALL ABOUT 3/4 ABOUT HALF ABOUT 1/4 ALMOST NONE

What percentage of battered women do you think turn to family and/or friends for help? (please circle the appropriate resonse on the scale below)

ALMOST ALL ABOUT 3/4 ABOUT HALF ABOUT 1/4 ALMOST NONE

(No Expert Testimony Condition)

Have you ever heard of the "battered woman syndrome"?

Yes _____
No_____

If you answered "yes", please answer the following three questions.

1. Please indicate where you heard about it.

_____

_____

2. To what extent do you think the "battered woman syndrome" applies to Mrs. Thomas?

not at all 1 2 3 4 5 6 7 8 9 applies completely

3. In your opinion, how much support do you think exists for the notion of "battered woman syndrome"?

no support at all 1 2 3 4 5 6 7 8 9 extensive support

(Expert Testimony Conditions)

To what extent do you think the "battered woman syndrome" applies to Mrs.
Thomas?

not at all 1 2 3 4 5 6 7 8 9 applies completely

In your opinion, how much support do you think exists for the notion of "battered woman syndrome"?

no support at all 1 2 3 4 5 6 7 8 9 extensive support

Had you ever heard of the "battered woman syndrome" before reading about this case?

Yes _____
No_____

If you answered "yes", please indicate where you heard about it.

_____

_____

We'd like to ask you a few general background questions about yourself:

1. Gender: Female _____
   Male _____

2. Age: _____

Please check the questionnaires to be sure you have not missed any items.

When you are finished, please return the questionnaire to the Experimenter. You are then free to leave.

Please do not discuss the specifics of this experiment (i.e., content of the trial) with anyone who may be participating in this study in the future (we will be finished conducting the study by the end of term). This is to ensure that their responses will be spontaneous.

THANK YOU FOR YOUR PARTICIPATION!

Explanation of the Study

In recent years, social scientific testimony has been used with increasing frequency by the courts. The study in which you just participated focused specifically on a relatively novel use of such testimony, referred to as "social framework" testimony. This testimony involves the introduction of general research results (e.g., eyewitness identification research, rape trauma syndrome research, battered woman syndrome research, etc.) to construct a frame of reference to assist jurors in their evaluation and interpretation of specific trial facts. The rationale underlying its use is that jurors lack general knowledge about some particular subject matter that is relevant to the specific case and thus, information provided by the expert offers a novel frame of reference for the jurors. The use of this testimony, however, has been controversial. Much of the controversy surrounding the introduction of this testimony focuses specifically on the issue of how the jury uses, or perhaps misuses, the testimony. Yet, little is actually known about how jurors respond to such evidence.

This study examines whether jurors' understanding and interpretation of trial evidence is altered by the introduction of social framework testimony. Specifically, the type of social framework testimony we are interested in is "battered woman syndrome" testimony. The trial you read about involves a battered woman who has killed her spouse and has entered a plea of self defense. To support this plea, some subjects were exposed to testimony raised by the defense that focuses on psychological research on the perceptions and behaviors of battered women (framework testimony), while other subjects were not exposed to this additional testimony. In addition, subjects were exposed to either of two different types of expert testimony. One was general (it just described the research) and one was specific (it indicated that the woman suffered from battered woman syndrome).

We predict that the presence of the expert testimony (as opposed to no expert testimony) will lead jurors to make different inferences and, ultimately, to render different verdicts. For example, they may find the accused's testimony more believable after hearing the expert's account of battered women and therefore will be more likely to find her not guilty.

Thank-you very much for your participation in the study. Please do not reveal any information concerning this study to your friends who may be participating in the study. This is to ensure that all responses are honest and spontaneous. If you wish to read more about the theory and research on which this experiment is based, I recommend the following sources.

Bennett, W. L. & Feldman, M. S. (1981). Reconstructing reality in the courtroom. New Brunswick, N.J.: Rutgers Univ. Press.

Hastie, R., Penrod, S. & Pennington, N. (1983). Inside the Jury. Cambridge: Harvard Univ. Press.

Loftus, E. F. (1986). Ten years in the life of an expert witness. Law & Human Behavior, 10, 241-263.

APPENDIX C

Instructions for Coders - Study I

Each subject's list of the pieces of evidence that most influenced their verdict was coded using the following scheme. Each statement made by the subject was coded into one of the categories listed below. If a statement fit more than one category, it was coded more than once, but most statements fit only a single category. Statements were also coded in terms of their favorability to the defendant's claim of self defense: Favorable (pro-defendant), Unfavorable (anti-defendant), or Neutral (no clear indication of statement's favorability to defendant). To maintain subjects' rankings of importance, the order in which the statements were ranked was also incorporated into the coding scheme.

Ability to leave = 1. Reference to leaving, escaping, being trapped in the relationship. Examples: "she had no where to go", "she should have left earlier", "she did not try to use all reasonable means of escape".

If reference is made to her inability to leave, etc., the statement is coded as Favorable (F). If reference is made to her ability to leave, it is coded as Unfavorable (U). Any statement that is ambiguous or in which no valence is apparant should be coded as Neutral (N).

Physical/psychological abuse = 2. References made to the defendant's prior history of abuse or beating on that particular day. Examples: "the bruises on her head, legs and arms", "no evidence of husband having a temper", "physician's evidence that she was beaten that morning", "the doctor's evidence at the hospital."

If the reference to the abuse is stated positively ("evidence of battering"), it is coded F. If it is stated negatively ("she was not severely beaten, no one saw the injuries she claimed she suffered"), it is coded U. Ambiguous or unclear items are coded N.

Seeking outside help = 3. Includes references to the defendant's seeking outside help or intervention. Examples: "never called the police", "didn't go for help".

If the statement is negative ("she should have gone for help", "she should have called the police, "she never did anything about the beatings before"), the statement is coded U. If the statement indicates that a lack of seeking outside assistance is understandable given the situation ("she had no one to turn to for help"), it is coded as F. Ambiguous items are coded N.

Imminent danger/fear/threat = 4. Includes statements referring to the defendant's perception of fear or imminent harm from her husband on the morning of the crime in question. Examples: "she shot but she was not being threatened", "she feared for her safety". Statements that refer only to the husband actions and not to the defendant's perception of fear (e.g., he threatened her, he pulled a gun on her, he intended to kill her) should not be coded here, but should be coded as 17 (see below).

References that indicate that she had a real perception of fear ("she was afraid for her life") are coded F, and those indicating no such fear ("she blindly shot into the office, though she was not being threatened") are coded U. Ambiguous items are coded N.

Intention to kill or cause serious bodily harm = 5. Includes any direct references to an intentional or deliberate act. Examples: "she deliberately shot him in the head", "she went to kill him not vice versa", "she had malice aforethought".

A statement is coded F if it indicates that the defendant lacked intention ("I don't believe that she intended to kill or harm him") and U if it indicates her actions were intentional ("she went to kill him"). Ambiguous items are coded N.

Control over actions = 6. Includes any reference to the defendant's lack of control over her actions, which could include references to killing in the "heat of passion", killing before there was time for emotions to "cool", killing because she was "provoked" by her husband.

If the statement indicates that the defendant lacked control, it is coded as N (since it precludes self-defense). If it indicates she may have been provoked, but a person in that situation would have controlled her actions, it is coded as U.

Necessity of force used = 7. This category includes statements that refer to the force used by the defendant against her husband. Examples: "she was too scared to defend herself and a gun was the only solution", "the third shot did not need to be shot", "the force she used was unreasonable".

If the statement indicates that the force used was reasonable ("a gun was all she had to protect herself"), it is coded F. If it indicates that the force used was unreasonable ("too extreme"), it should be coded U. Ambiguous items are coded N.

Initial reaction to the police = 8. Statements that make reference to the defendant's initial reaction to the police, that is, her failure to mention self-defense. Examples: "she did not tell the police right away that her husband tried to kill her", "she concocted the story of self-defense after talking to her lawyer".

A statement that questions the honesty of her initial reaction is coded U ("no reason she would not have immediately told the police he tried to kill her", "she didn't say that her husband beat her right away"). Statements that suggest her initial reaction was natural given the situation are coded F ("it is understandable that she was confused after the shooting"). Ambiguous statements are coded N.

Credibility of defendant = 9. Includes general reference to the credibility of the defendant. Examples: "her story is just plain implausible", I believe the story she told". Statements that questions specific aspects of her testimony (I don't believe she was beaten as severely as she said) are not to be coded here, but rather in the appropriate category (physical/psychological abuse).

If the statement indicates disbelief or questions her credibility, the item is coded U. If it indicates belief in her account, it is coded F. Ambiguous statements are coded N.

Other-her = 10. Statements that refer specifically to the

defendant, but do not fit in any of the preceding 9 categories should be coded as other-her. The statement should also be coded in terms of its favorability to the defendant's case.

Expert testimony on battered woman syndrome = 11. This category includes any reference to the psychologist's testimony on battered women.

If reference is made to how the testimony is applicable to the defendant ("the defendant fits the description given by the psychologist"), it is coded F. If a negative reference is made ("the defendant didn't suffer from the syndomre", "the doctor couldn't say whether she suffered from it or not"), it is coded U. If no reference is made or it is unclear ("psychologist's testimony"), it is coded N.

Time interval = 12. This category refers specifically to the conflicting time estimate given by the secretary. Examples: "amount of time between when husband was downstairs and secretary heard shots fired", "only 10 seconds between husband letting in the secretary and the shots".

Do not include references to the 1 hour time interval between when the first battering incident occured and when the shooting took place.

If the statement indicates a belief (does not question) the secretary's estimate ("short time span between opening door and first shots heard by secretary"), it is coded as U. If it indicates that the secretary's estimate is questionable ("her estimate cou' ot be that precise"), it is coded as F. Ambiguous statements are (ed N.

Secretary overhears = 13. Refers to statements that refer to the secretary overhearing the fight or the victim plea for his life. Examples: "the assistant heard him plea for his life", "the secretary overheard the fight".

The statement is to be coded as F if it treats her evidence as biased or unlikely to be accurate ("how could she overhear through all those walls"). If it does not question the testimony ("fact that secretary heard him pleading for his life"), it is to be coded U. Ambiguous statements are to be coded N.

Secretary - general = 14. If the statement refers to the secretary's account generally, that is, no specific mention is made about items 11 or 12, it is categorized as 13.

If the testimony of the secretary is treated as pluasible or believable ("she had no reason to lie"), then it is coded as U. If it is view negatively or as biased, it is coded F ("secretary's testimony was not very convincing"). Ambiguous statements are coded N.

Deceased's mother's account = 15. This refers to statements that refer to the victim's mother's testimony. Examples: "mother said he was a good man".

If the statements has negative implications for the defendant and her self-defense claim ("mother's evidence that husband was a good husband"), it is coded U. If her testimony is viewed negatively or biased ("the mother was just trying to protect her son"), it is coded F. Ambiguous statements are coded N.

Gunshots = 16. Involves specific reference to the shots fired, either pertaining to the number of shots fired, the aim, whether they were warning shots, the wounds they inflicted, etc. Examples: "the bullet to the head was fatal", "the shots were fired from close range".

If the statement suggests that the shots were excessive ("three shots", "she shot again after the warning", "the wounds were fatal") or intentional ("pretty good aim for shooting blindly"), it is coded U. If the statement suggests they were not excessive ("she shot as a warning") or intentional ("she just shot blindly, not even looking"), it is coded F. Ambiguous statements are coded N.

Husband's actions = 17. This category refers to actions of the husband on the morning of the crime. Examples: "he pulled out the gun not her", "he threatened to kill her", "he couldn't have intended to kill her", "he couldn't have looked too vicious", "his fingerprints were on the gun".

If the statement presents him favorably ("he didn't want to fight", "he didn't want to kill her"), it is coded U. If the statement presents him negatively ("he threatened her", "his fingerprints were on the gun", "it was his gun"), it is coded F. Ambiguous items are coded N.

Evidence sufficiency = 18. This category refers to general reference to the strength of the Crown's case as compared to the defense. Examples: "the Crown didn't present enough evidence to convince me".

If the statement indicates that the Crown's case was not strong enough to convince the subject beyond a reasonable doubt or it is deemed equal to the defense's case, it is coded as F. If the defense's case is deemed too weak, it is coded U. Ambiguous statements are coded N.

Other = 19. Statements that do not appear to fit in any of the other 17 categories should be coded into the category of other. The favorability of the item should also be coded.

Coding Scheme - Verdict Category Understanding

Each subject's written description of the elements comprising each of the verdict categories (mental intent, circumstances, actions) was coded in the following way. Each verdict option (second-degree murder, manslaughter, not guilty due to self defense) was coded separately for the number of correct and incorrect elements cited by the subject.

If a subject mentioned the same element more than once it was only coded once. Subjects' responses did not have to be fully articulated. For example, "intention" or "without a moment to cool off" or "no escape" sufficed to receive a scores of 1 for second-degree murder, manslaughter, or self-defense, respectively.

References to the element of identity were not coded since that is part of each category and was not at issue in this particular case (defendant admitted to the killing). References to how the facts of the case applied were ignored for this coding scheme.

1. Second-degree murder.

Correct. Subjects received a separate score for mentioning each of the following three aspects of the verdict. Reference to either the killing involving "malice aforethought", "intention to kill", "intention to cause an injury that was likely to result in death" (desire, wish...to kill or cause death or injury), or to it being "a deliberate act" received a score of 1 for "mental intent". "Insufficient provocation" received a score of 1 for "circumstances". And, either "did not exhaust ecapse" or "used excessive force" received a score of 1 for "actions". Thus, scores for correct responses for this verdict category could range from 0 to 3.

Incorrect. If elements from other categories were cited by a subject, they were scored 1, and the element listed was transcribed on the coding sheet. Other elements not part of this category, or any other category in the study (e.g., planned, premediatation) were also scored 1.

2. Manslaughter.

Correct. The following aspects of the manslaughter verdict each received a score of 1. If the subject cited either a killing committed "in the heat of sudden passion", with diminished capacity" (e.g., loss of control), or "committed before there was time for the passion to cool", the item received a score of 1 for "mental intent". "Great provocation" reveived a score of 1 "circumstances". Finally, either "did not exhaust escape" and "used excessive force" were received scored 1 for "actions". Scores could range from 0 to 3.

Incorrect. If elements from other catetories were mentioned in this category, they were scored 1 and the element listed was transcribed onto the coding sheet.

3. Not-guilty due to Self-defense.

Correct. The following aspects of the verdict each received scores of 1. If the subject referred to the fact that the accused must

have "a fear of of life or great bodily harm" or to the need to "defend oneself", it was scored 1 for "mental intent". References to the need to "exhaust all reasonable means of escape" or "an inability to escape" were also coded 1 ("action" attribute). Finally, if the subject mentioned that one could "use no more than reasonable force" (not excessive force) to protect oneself, it was scored 1 ("action attribute". No circumstance attribute (underattack, unable to escape) was coded because of its redundant with the mental intent attribute. Thus, scores for this verdict category could range from 0 to 3.

Incorrect. Any elements from other categories were coded 1 and transcribed onto the coding sheet.

APPENDIX D

Dependent Measures & Materials - Study II

Consent to Participate in Research

Regina Schuller of the Department of Psychology is undertaking a study and requests your participation. The study will involve you listening to a criminal trial and then deliberating in groups of four to reach a verdict on the case. The deliberations will not involve you in any known risks. Following the experiment, you will be provided with a complete explanation of the purposes and expected results of the study. All data gathered in this experiment will be confidential and for research purposes only. If you have any questions during the study, feel free to ask the experimenter.

As is the practice of the Department, you are free to withdraw from this study at any time for any reason without loss of experimental credit.

_____ (date)

_____ (signature of subject)

A. Trial Opening

1. Arraignment of the Accused - charge of second degree murder is read to the accused

2. Judge's Opening Instructions - judge outlines the trial procedure

B. Attorney's Opening Statements

1. Prosecution's Opening Statement - the prosecuting attorney presents the Crown's case

2. Defense's Opening Statement - the defense attorney presents the Defense's position

C. The Prosecution's Case

1. Sergeant Wright (investigating officer)
   a) the prosecuting attorney questions the witness
   b) the defense attorney cross examines the witness

2. Elizabeth Simner (employed by victim)
   a) the prosecuting attorney questions the witness
   b) the defense attorney cross examines the witness

3. Dr. Silverman (investigating pathologist)
   a) the prosecuting attorney questions the witness
   b) the defense attorney cross examines the witness

4. Casandra Thomas (victim's mother)
   a) the prosecuting attorney questions the witness
   b) the defense attorney cross examines the witness

D. The Defense's Case

1. Dr. Wilson (Expert Testimony Conditions only)
   a) the defense attorney questions the witness
   b) the prosecuting attorney cross examines the witness

2. Dr. Richardson (investigating physician)
   a) the defense attorney questions the witness
   b) the prosecuting attorney cross examines the witness

3. Carolyn Thomas (the accused)
   a) the defense attorney questions the witness
   b) the prosecuting attorney cross examines the witness

E. Attorney's Closing Statements

1. The Defense's Closing Statement

2. The Prosecution's Closing Statement

F. Judge's Final Instructions – the rules of law that you must follow to come to your decision are outlined

Jury Number (your code number is on the card on the table) _____

Deliberation Verdict

Please indicate your final unanimous verdict in the case:

_____ guilty of second degree murder

_____ guilty of manslaughter

_____ not guilty due to self defense

Instructions

Please fill in your code number _____ (your code number is the number that was on the card on the table in your jury room).

On the next few pages you will be asked a number of questions about various aspects of the case. We are interested in your opinions and impressions and there are no right or wrong answers (remember, this is not a test). You will also be asked to provide some background information about yourself.

Remember, this questionnaire is to be filled out independently - do not discuss it with other members of your jury group.

You may start the questionnaire. Please try to complete the questions in the order in which they are presented and be sure to answer all the questions.

If you have any problems with any of the questions, please do not hesitate to ask the Experimenter for help.

1. What was your jury group verdict in this case? (please ckeck below)

   _____ guilty of second degree murder

   _____ guilty of manslaughter

   ___ _____ not guilty due to self defense

2. To what extent do you agree with the verdict reached by your jury group? (Please indicate by circling the number on the nine-point scale below where 1 means completely agree and 9 means completely disagree)

Completely Agree 1 2 3 4 5 6 7 8 9 Completely Disagree

3. How satisfied are you with your group's deliberation, that is, with the way in which your group arrived at its final verdict? (Please indicate by circling the number on the nine-point scale below where 1 means very unsatisfied and 9 means very satisfied)

Very Unsatisfied 1 2 3 4 5 6 7 8 9 Very Satisfied

Below are the three additional items that were added to the Evidence/evaluation questionnaire employed in Study I (for the remaining items see Appendix B):

To what extent do you think Mrs. Thomas is responsible for the events that occurred on the morning of the crime in question?

completely responsible 1 2 3 4 5 6 7 8 9 not at all responsible

To what extent is Mr. Thomas to blame for the events that occurred on the morning in question?

not at all to blame 1 2 3 4 5 6 7 8 9 completely to blame

To what extent do you think Mr. Thomas deserved the outcome of the events in question?

did not deserve the outcome 1 2 3 4 5 6 7 8 completely deserved the outcome

Following is a list of characteristics that can be used to describe someone. We are interested in your impressions of the accused, Carolyn Thomas. What do you think she is really like as a person? For each of the 7-point scales below, please indicate your impression of her by placing an X in the space that best characterizes what you think she is really like. Be sure to read each endpoint of the scale and feel free to use the whole range of the 7-point scale.

sincere	_____:_____:_____:_____:_____:_____:_____	insincere
intelligent	_____:_____:_____:_____:_____:_____:_____	unintelligent
bad	_____:_____:_____:_____:_____:_____:_____	good
insecure	_____:_____:_____:_____:_____:_____:_____	secure
powerful	_____:_____:_____:_____:_____:_____:_____	weak
responsible	_____:_____:_____:_____:_____:_____:_____	irresponsible
nontraditional	_____:_____:_____:_____:_____:_____:_____	traditional
credible	_____:_____:_____:_____:_____:_____:_____	not credible
untrustworthy	_____:_____:_____:_____:_____:_____:_____	trustworthy
likable	_____:_____:_____:_____:_____:_____:_____	not likable
unassertive	_____:_____:_____:_____:_____:_____:_____	assertive
respectable	_____:_____:_____:_____:_____:_____:_____	unrespectable

(Expert Testimony Conditions only)

Please rate the expert witness who testified about the Battered Woman Syndrome on the scales below:

competent :___:___:___:___:___:___:___: incompetent

convincing :___:___:___:___:___:___:___: unconvincing

not effective :___:___:___:___:___:___:___: effective

1. To what extent do you think the "battered woman syndrome" applies to Mrs. Thomas?

not at all 1 2 3 4 5 6 7 8 9 applies completely

2. In your opinion, how much support do you think exists for the notion of the "battered woman syndrome"?

no support at all 1 2 3 4 5 6 7 8 9 extensive support

3. How useful for your decision was the testimony about the "battered woman syndrome"?

not at all useful 1 2 3 4 5 6 7 8 9 extremely useful

(General Expert Condition only)

4. Why do you think the expert did not indicate whether he thought the accused suffered from the "battered woman syndrome"? (please indicate in you own words)

To answer the questions in this section, please think specifically about the accused's (Mrs. Thomas') situation. For each of the statements, indicate the degree of your agreement or disagreement with a given statement by circling the appropriate scale value that best fits your opinion.

1. A woman in this situation would blame herself for the violence in the relationship.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

2. A woman in this situation would show signs of extreme anxiety and depression.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

3. Once violence has been used in a relationship, it is always there as a potential threat, even if it is never used again.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

4. A woman who chooses to remain in this sort of abusive relationship must not be suffering too badly.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

5. A woman in this situation would be persuaded to stay with her husband if he promised never to hurt her again.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

6. A woman in this situation would stay with her husband because she would feel dependent on him.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

7. A woman in this situation would believe that trying to leave her husband would result in further abuse.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

8. A woman in this sort of abusive relationship can predict when further violence is inevitable.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

9. Sometimes, a woman in this situation would deliberately provoke the violence, just to get it over with.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

10. A woman in this situation would believe that she is helpless to stop the beatings.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

11. A woman in this situation would believe that her husband might kill her.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

12. A woman in this situation would believe that using deadly force against her husband is the only way for her to stay alive.

STRONGLY DISAGREE	MODERATELY DISAGREE	SLIGHTLY DISAGREE	NEUTRAL	SLIGHTLY AGREE	MODERATELY AGREE	STRONGLY AGREE

We would now like you to think back to when you just finished hearing the case, that is, before you deliberated with other jury members. Please try to think about how you felt before you met and discussed the case with the others and try to answer the questions below.

1. If you had to decide the case on your own (before the jury deliberation took place), which of the three verdicts do you think you would have chosen? (please check below):

Guilty of second degree murder: _____

Guilty of manslaughter: _____

Not guilty due to self-defense: _____

2. How certain do you think you were about this choice before you discussed it with other group members? Please indicate your degree of certainty by circling a number on the 9-point scale below, where 1 means not at all certain and 9 means completely certain.

not at all certain	1	2	3	4	5	6	7	8	9	completely certain

Explanation of the Study

In recent years, social scientific testimony has been used with increasing frequency by the courts. The study in which you just participated focused specifically on a relatively novel use of such testimony, referred to as "social framework" testimony. This testimony involves the introduction of general research results (e.g., eyewitness identification research, rape trauma syndrome research, battered woman syndrome research, etc.) to construct a frame of reference to assist jurors in their evaluation and interpretation of specific trial facts. The rationale underlying its use is that jurors lack general knowledge about some particular subject matter that is relevant to the specific case and thus, information provided by the expert offers a novel frame of reference for the jurors. The use of this testimony, however, has been controversial. Much of the controversy surrounding the introduction of this testimony focuses specifically on the issue of how the jury uses, or perhaps misuses, the testimony. Yet, little is actually known about how jurors respond to such evidence.

Therefore, this study examines whether jurors' understanding and interpretation of trial evidence is altered by the introduction of social framework testimony. Specifically, the type of social framework testimony we are interested in is "battered woman syndrome" testimony. The trial you read about involves a battered woman who has killed her spouse and has entered a plea of self defense. To support this plea, some subjects were exposed to testimony raised by the defense that focuses on psychological research on the perceptions and behaviors of battered women (framework testimony), while other subjects were not exposed to this additional testimony. We predict that the presence of the expert testimony (as opposed to no expert testimony) will lead jurors to make different inferences and, ultimately, to render different verdict. For example, they may find the accused's testimony more believable after hearing the expert's account of battered women and therefore will be more likely to find her not guilty.

Thank-you very much for your participation in the study. Please do not reveal any information concerning this study to your friends who may be participating in the study. This is to ensure that all responses are honest and spontaneous. If you wish to read more about the theory and research on which this experiment is based, I recommend the following sources.

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APPENDIX E

Instructions for Coders - Study II

Coding scheme - Jury Deliberations

Each jury deliberation was coded for the discussion of the following content categories. Each category was associated with a different color marker and deliberation material falling within the category was highlighted with the appropriate marker color for easy recognition. The material coded within each of the categories was also coded for its favorability towards the defendant's claim of self defense: favorable to the defendant's claim of self-defense (F), unfavorable to the defendant's claim of self-defense (U), or neutral (no clear indication of favorability to the defendant's claim) (N). The favorability of the material was noted in the margin of the transcript.

Ability/inability to leave = Blue. This category involves statements and discussion pertaining to the defendant's ability/inability to leave the situation, either prior to the incident or the morning of the incident. It involves discussion of leaving, escaping, being trapped in the relationship, not using other means to escape from the situation, failing to seek outside help, etc.

If the material focuses negatively on her inability to leave (i.e., she should have left), the material is to be coded U. If the material indicates that her failure to leave is understandable or reasonable (i.e., she had no where to go or turn to, she was too afraid to leave earlier), it is to be coded as F. Any statements or discussion that are ambiguous or neutral in nature should be coded as N.

Physical/psychological abuse = Pink. Includes statements and discussion about the physical and/or psychological abuse suffered by the defendant, either her prior history of abuse or the beating on the day of the homicide.

If the material about abuse is stated such that it does not question the abuse (i.e., she was severely beaten, he beat her on a regular basis), it is to be coded F. If it is stated negatively such that the abuse is questioned (i.e., the abuse could not of been severe), it is coded U. Ambiguous or unclear material is to be coded N.

Imminent danger/fear/threat = Red. Includes statements and discussion referring to the defendant's perception of fear or imminent harm from her husband on the morning of the crime in question.

Material that indicates that she had a reasonable or understandable perception of fear given her situation (i.e., she was afraid for her life, she was so scared of him when he came up) is to be coded F. Material that questions or indicates no such fear (i.e, why should she be afraid of him?) is to be coded U. Ambiguous or neutral material should be coded N.

Intention to kill or cause serious bodily harm = Purple. Includes any statements or discussion pertaining to the mental intentions of the defendant on the morning of the crime.

The material is to be coded F if it indicates that the defendant lacked an intention to cause her husband bodily harm (i.e., she did not intend to kill or harm him) and U if it indicates her actions were intentional (i.e., it was her intention to kill him, she called him upstairs to kill him). Ambiguous material is to be coded N.

Control over actions = Orange. Includes any material that makes reference to the defendant's degree of control over her actions, which could include references to her killing in the "heat of passion", killing before there was time for her emotions to "cool", killing because she was "provoked" by her husband.

If the statement indicates that the defendant lacked control, it is coded as L (indicates a loss of control). If it indicates that she was in control of her actions it is to be coded C (control over actions). Material that is ambiguous or neutral in nature is to be coded N.

Necessity of force used = Navy Blue. This category includes statements or discussion that refers to the force used by the defendant against her husband.

If the statement indicates that the force used was reasonable (i.e., the force was necessary for her to protect herself), it is to be coded F. If it indicates that the force used was unreasonable (i.e., her response was too extreme), it should be coded U. Ambiguous or neutral material is to be coded N.

Initial reaction to the police = Yellow. This category involves statements and discussion that make reference to the defendant's initial reaction to the police, that is, her failure to mention self-defense.

If the material questions the honesty of her initial reaction (i.e., no reason she would not have immediately told the police he tried to kill her), it is to be coded U. Material that suggests her initial reaction was natural given the situation (i.e., it is understandable that she was confused or in shock after the shooting) is coded F. Ambiguous or neutral material is to be coded N.

Credibility of defendant = Black. Includes general statements or discussion of the credibility of the defendant. If the statement indicates disbelief or questions her credibility (i.e., I don't believe her story, she's lying), the item is coded U. If it indicates a belief in her testimony (i.e., I believed what she was saying), it is to be coded F. Ambiguous or neutral material is to be coded N.

Statements that question specific aspects of her testimony (e.g., I don't believe she was beaten as severely as she said, I can't believe her when she says wouldn't leave) are not to be coded here, but rather in the approriate category (e.g., physical abuse and ability/inability to leave, respectively).

Secretary's testimony = Brown. This category refers specifically to the testimony presented by the secretary. It can involve the conflicting time estimate given by the secretary (i.e., amount of time between when husband was downstairs and secretary heard shots fired),

but does not include discussion of the one hour time interval between when the first battering incident occured and when the shooting took place. It may also refer to discussion of what the secretary said she overheard (i.e., the fight or the victim's plea for his life). Or, it may involve the secretary's overall credibility or her testimony more generally.

If the testimony of the secretary is treated as believable and damaging to the defendant's version of what occurred (i.e, she had no reason to lie, she heard him pleading for his life), then it should be coded as U. If it is viewed negatively or as biased (i.e., she could not hear through all those doors, the secretary's testimony was not convincing), it should be coded F. Ambiguous or neutral material is to be coded N.

Expert testimony on battered woman syndrome - Green. This category includes any explicit discussion or statements made about the psychologist's testimony on battered women. If the expert testimony is used favorably, that is, to back up the defendant's case (i.e., that behavior is consistent with what the psychologist described, the expert testimony was very helpful), it should be coded F. If the expert testimony is discussed negatively (i.e., the defendant didn't suffer from the syndomre, the doctor's testimony is irrelevant), it is to be coded U. If the reference is unclear or neutral in nature it is to be coded N.

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19. State v. Thomas, 423 N.E. 2d 137 (Ohio 1981).
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PUBLICATIONS

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PRESENTATIONS

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